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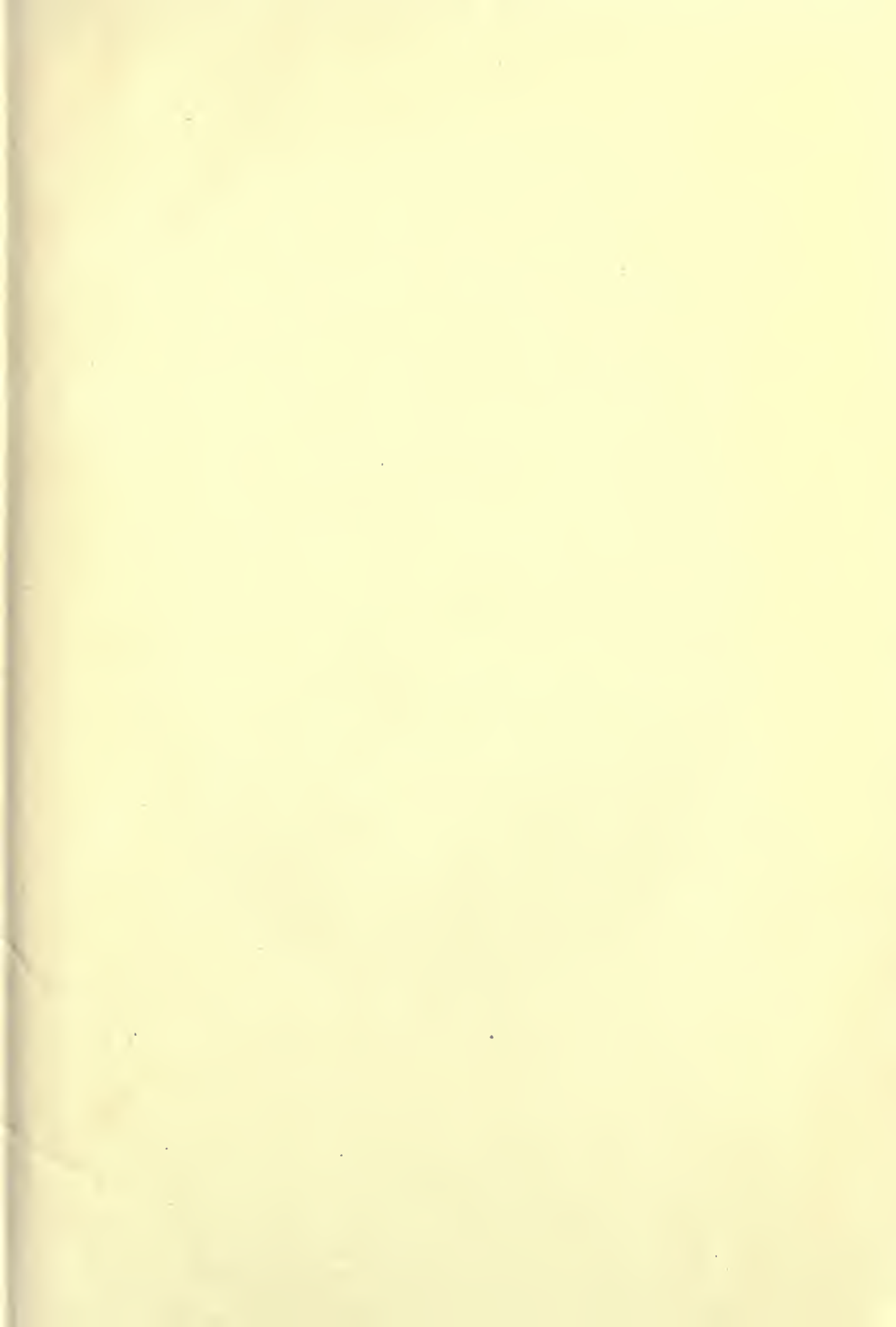
JOSEPH SCHAFER, SUPERINTENDENT  
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WISCONSIN HISTORICAL PUBLICATIONS

COLLECTIONS, VOLUME XXVIII

CONSTITUTIONAL SERIES, VOLUME III







EDWARD GEORGE RYAN

From an oil portrait in the Wisconsin State Capitol



PUBLICATIONS OF THE STATE HISTORICAL SOCIETY  
OF WISCONSIN

COLLECTIONS, VOLUME XXVIII  
CONSTITUTIONAL SERIES, VOLUME III

# THE STRUGGLE OVER RATIFICATION

1846-1847

EDITED BY

MILO M. QUAIFE

WISCONSIN HISTORICAL SOCIETY



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**PART I LETTERS FROM THE CONVENTION**



## LETTERS TO THE RACINE *ADVOCATE*<sup>1</sup>

[October 14, 1846]

MADISON, October 6, 1846

JOHN C. BUNNER ESQ.: Yesterday noon the convention assembled in the capitol was called to order by Gen. Wm. R. Smith of Iowa, who called the roll, upon which eighty-seven delegates answered to their names. Moses M. Strong of Iowa was appointed president pro tem with secretaries, etc., pro tem. A committee was raised to examine and report on the credentials of members and the convention adjourned to three o'clock P. M., refusing to adopt a motion made by one of your delegation for adjournment over to this morning.

At three o'clock the committee reported on credentials and ninety-three members appeared in their seats, as nearly as I can gather, by counties as follows: \* \* \* These ninety-three members in their large chamber looked like a great crowd, certainly, but as a general rule like a crowd of very fine, intelligent looking men, who, as far as a stranger can judge by appearances, could well compare with any similar body of the same size anywhere. There are a few aged men, some of whom are fine specimens of gentlemen of the old school, but the great majority of the members are men of middle age, say from

<sup>1</sup> The author of this series of letters was Edward G. Ryan, of Racine one of Wisconsin's most brilliant men. Concerning him a correspondent of the *Southport Telegraph* of Nov. 11, 1846, over the signature "An Up Stair Lobby," wrote as follows:

"\* \* \* By the way there is much said, both in and out of doors, about incorrect and singular statements of the proceedings of the convention by "Lobby" of the *Racine Advocate* in some of his last communications. That he is so erroneous in his statements of their proceedings is not to be wondered at, as he seems to be wrong in all his acts in the convention, and displays much of the spirit here that characterizes his articles to that paper. No one can suit him unless they follow in his wake, or, as he stated yesterday in the course of debate when he made such an unjustifiable and unwarrantable personal attack upon Mr. Hunkins of Waukesha (in which he gained no advantage) that there was no man in the convention whose talents he respected, and but one that he feared. If there were two others like him in the convention you might despair of realising a release from territorial bondage. But more by and by.

Yours,

AN UP STAIR LOBBY"

That Ryan was the author of the letters in the *Advocate* over the pseudonym "Lobby" is apparent both from internal evidence and from an editorial in the *Milwaukee Sentinel and Gazette* of March 1, 1847.

thirty-five to forty. All evince, so far, a steady and earnest disposition for the important work before them.

A committee was then raised to report upon the necessary officers for the convention, who retired to prepare their report; and another committee was appointed to report rules for the government of the convention by ten o'clock this morning.

While the former committee were still out, Mr. Baird of Brown, Whig, offered a resolution that in the election of officers a majority of all delegates voting should be necessary to a choice, which was carried. Dr. Judd of Dodge, Democrat, then moved to proceed at once to the election of president, which motion after some conversation he withdrew, until the committee on officers should have reported. The committee came in a few minutes after and reported a president, two secretaries, two doorkeepers, two messengers, and a sergeant at arms, which was agreed to.

Mr. Elmore of Waukesha, a Whig and ardent supporter, it is believed, of the Milwaukee candidate for the presidency, then moved to proceed at once to the election of the president. This motion was made the subject of considerable discussion; Judd, Democrat, and Baird, Whig, supporting it, and Ryan and Strong of your county opposing it. Mr. Ryan amongst many other reasons avowed his desire to go into Democratic caucus to choose officers. Dr. Judd did not wish to be dictated to by a caucus. Mr. Baird took high ground against the introduction of party principles, while the opponents of the motion pleaded the ancient and invariable Democratic usage and claimed that they were sent there to represent Democratic principles, to form a constitution on those principles, and as a great step towards that end to choose a Democratic president by Democratic voices, without admitting a corporal's guard of Whigs virtually to make the choice between the Democratic candidates, thus risking the election of president against the choice of a majority of the Democratic delegates.

Mr. Lovell of Racine, Democrat, moved to lay on the table — lost; and the Whig motion was finally carried by a large majority, all or nearly all the Whigs, Milwaukee, Waukesha, Washington, Dodge, and Jefferson, voting for it.

After some further discussion a motion to adjourn was lost, the voting as before.

The convention then proceeded to ballot, with the following results: [for the ballots on election of president, see Vol. II, journal of the convention for Oct. 5, 1846].

And so upon a Whig motion and virtually by Whig votes the

election of president was decided against the safe and settled usage of the party. How far the representatives of Democratic constituencies can justify themselves in refusing to be bound by a majority of their own party to be ascertained in caucus is for the people to decide. The twelve delegates from your county (Messrs. Cartter and Stockwell being sick at home) voted against the motion to elect without caucus and for every motion to lay on the table and adjourn. I am also well informed that, excepting that gentleman himself, they unanimously cast their votes on every ballot for the choice of their county. At the result great are the rejoicings of Milwaukee, its associate counties, and the eastern Whigs, to a man, among whom the most self-satisfied expression was to be seen upon the shrewd and smiling face of the gentleman from Winnebago.<sup>2</sup>

The whole plan had been, it is generally understood, arranged out of doors, without consulting probably more than a single delegate from Racine, Walworth, and Rock, and such was the result. The perseverance evinced in opposing a caucus was natural in the Whigs and not without policy at least in the Democratic friends of the fortunate candidate, as it is extremely probable that a caucus would have decided differently.

Mr. Upham was conducted to the chair and made a plain and evidently unprepared address of thanks to the convention. Mr. Upham is a gentleman of respectable talents and I believe of some legislative experience, and I trust will make a good presiding officer. Had he been chosen by a Democratic caucus the choice might have disappointed many, but all would undoubtedly have cheerfully submitted. The course pursued was, in my judgment, an unfortunate one for the party, and not less so for the prevailing candidate.

One thing said by Mr. Upham on taking the chair struck me a little strangely: Upon the fundamental principles to be introduced into the constitution, said the president in substance, there will probably be no difference amongst us. I am afraid it will be otherwise; and unless the truth be far different, it seems to me the people were strangely in error in electing their delegates—the President amongst the rest—on party principles, and the mass meeting of people in your county was right after all. Especially do I judge this, if there should blow an east wind upon the capitol, redolent of bank or quasi bank odor. But at the same time, whatever desire of success may have led men away from the usages of their party in yesterday's proceedings, the Democracy of the convention is too

<sup>2</sup> James Duane Doty, former territorial governor of Wisconsin.



sound to lose sight of the principles of their party in this and other things, which some have heretofore deemed not inconsistent with the profession of Democratic principles. The declaration of the President was probably a chance and unconsidered remark.

There are details connected with these proceedings which seem to give some further significance to them, which shall be forthcoming in their proper time, but which had better be reserved for future detail and comment. \* \* \*

There was something like a debate this afternoon, and some very pleasant and good natured sparring in the settlement of the rules. General Smith of Iowa, Dr. Judd of Dodge, the two Strongs, and Mr. Chase of Fond du Lac were amongst the principal speakers. A proposition to limit the length of speeches was excellently discussed and rejected by a very large vote.

So far the debates have of course not been very important; but as they have all been earnest, pertinent, marked by great courtesy, and, for the subjects, great ability, I can draw a fair inference in favor of the excellent material of the convention and the probable interest and good feeling of the discussions. I sincerely trust that this inference may not prove unfounded.

I have given you some account of most things which have so far occurred and shall soon send you some more details of my observations from the

LOBBY.

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[October 14, 1846]

MADISON, October 8, 1846

JOHN C. BUNNER ESQ.: Yesterday morning the convention met at the hour fixed by the rule, ten o'clock A. M. \* \* \*

A resolution offered the day before by Mr. Chase of Fond du Lac, proposing to furnish each delegate with forty copies of the newspapers published here with reports of the doings of their honorable body, was then taken up, to which various amendments were offered and on which a great deal of discussion arose, in the course of which our ancient legislative acquaintance, Buncombe, made his first appearance on the floor. Whether it be right or wrong for such a body to go to a few hundred dollars' expense in furnishing their constituents with some news of their doings I cannot assume to decide; but Mr. Steele of your county stated that on his calculation the debate cost about as much as the newspapers. I regretted to see General Buncombe in command of the movements of such a



body, even on so slight a subject; and I trust he has resigned the command of it forever in favor of General Principles. You will excuse me the remark, as your polite friend at the hall says. The resolution, amended to read twenty copies instead of forty, finally prevailed, and I trust your neighbors may be benefited by the distribution; half a loaf is better than no bread, even where loaves, to say nothing of fish, have been heretofore so abundant.

This discussion having lasted till noon, the convention adjourned till this morning, in order, I suppose, to give Mr. President time for the composition of his committees.

I may remark that several members, not including any from your county, appeared during the day and took their seats.

This morning after some unimportant matters had been disposed of the election of a printer came up, and very much the same influences which produced the election of president on Monday today produced the election of the "soft," or as we style it here, the "Tadpole" concern, the *Democrat*, as printer to the convention. The vote as taken by yeas and nays stood as follows: *Argus* (*Democrat*) 44; *Democrat* (*Tadpole*) 50; *Express* (*Whig*) 2; every Whig, save the two voting for the *Express*, voting of course with the "softs." In other respects, too, the vote is not very materially different from what is generally believed to have been the final vote for president, Beriah Brown, the editor of the *Democrat*, succeeding to the strength of the President (who, by the way, himself voted for the *Democrat*), and the votes of all other candidates being cast for the *Argus*, except two Whig friends of the President who sheltered themselves in the viva voce vote behind the *Express*. I said "not materially different"; to have said "not extensively different" would have been a more correct expression, for there were several material but not numerous differences. For example, some two or three of your delegates, sore with the treatment they think they received from Dane County on the election of president, and deceived in regard to the character of that paper, voted for the *Democrat*, while some independent gentlemen from Milwaukee, who had probably some insight into the views of the "softs," refused to cast their votes against the true organ of their true principles. Thereupon again rejoice Milwaukee, its northern associates, and the happy gentleman from Winnebago, who is generally believed to be the silent partner in this game, and whose shrewd eye once more twinkled and whose smooth face once more beamed with complacent smiles at what he doubtless considered the second triumph in the convention of his unseen and unspeaking genius.

Do not let these results alarm you for the constitution. It is true that the east wind is already beginning to fan the capitol with slight and gentle puffs, which may yet become breezes or a gale; but have no fear. The sound Democracy of the convention composes a handsome working majority over Whigs and "softs"; and when once the hall is heated to true Democratic heat, even the "softs" may become hardened in the process; but at all events there are dozens of Democrats—good, true, and steadfast—who have voted both or either time with the "softs," from personal or local considerations, and in utter ignorance of their full plans, who will leave them alone in their glory at the first instant they are trusted with a hint of their ultimate plans.

I said the east wind had already begun to fan the capitol and softly steals occasionally on one's ear; by mere accident an uncautious word, apropos of some more passing thing—the gentlest of feeling—the slyest of hints; a word of free banking; "no charters," it says, "no privileges: we are all agreed—all true men; but free trade in all things; let every man be free to bank if he will or can." Aha! Mr. M [itche] ll, how would that suit you, eh? Free trade in all things, forsooth, even in swindling the people with shinplasters.

But mark me: when these plans leak out, if, as may happen, they do not expire of fear untold in the breasts of their authors, they will die of being known and only act in cementing the strength of the real party, to the discomfiture of the "softs" forever.

After the election of printer the President asked time till four o'clock to complete his standing committees, to which hour the convention adjourned.

At four o'clock the convention met accordingly, and the President announced his committees. I can only give you the names of the chairmen by reference to them as I have numbered them. \* \* \*

It is generally understood that the President had considerable difficulty in so filling his committees as at once to satisfy the public and the convention and at the same time to comply with the peculiar views which are supposed to govern him. You will be as well able to judge of his success by and by as I could, and neither you nor I can yet. By their fruits you shall know them.

As you will readily see, with the exception of Mr. Strong no delegate from your county has any committee which affords any opportunity of distinction, and even Mr. Strong's committee is only about the eighth on the list in point of desirableness. Racine County is paid off for last Monday's struggle. Why Mr. Strong of Racine

Strong of Iowa, Steel, Hyatt Smith, and many others were postponed to Mr. Baker is a curious question readily understood here.

There was a closing scene upon the floor this evening which created some little excitement, which I have no room for now; but if I have nothing of more interest to fill my next I may advert to it. Governor Dodge has been here some days, looking remarkably well. The honest, straightforward old General, with his frank manners and straight course, forms a strong contrast to one also here who has stepped closely on his heels in political life. Next week in time for your issue you will again hear, if you desire it, from the

LOBBY.

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[October 21, 1846]

MADISON, October 15, 1846

J. C. BUNNER ESQ.: Since my last the convention has made some progress in its business, but not near so much, it seems to me, as might have been made if some honorable delegates had understood their business here to be the formation of a new constitution, not the organization of a new party. Of this anon.

My last accounts brought you down to Thursday evening. On Thursday morning three standing committees reported by their chairmen. Mr. Ryan, from a majority of the committee on banks, reported a stringent article agreed upon by four of the committee. Mr. Gibson of Fond du Lac (Whig) dissented and has since made a minority report authorizing bank charters under certain restrictions. Mr. Strong of Iowa, from a majority of the committee on suffrage, reported an article conferring suffrage on all citizens and foreigners who have declared their intentions to become citizens and taken an oath of allegiance to the United States and the state after six months' residence in the state; voting to be *viva voce*; voter to swear, when challenged, that he has not betted on the election, etc. Mr. Burchard of Iowa (Whig) dissented and promised a minority report, which I believe has not yet appeared. Mr. Smith of Rock reported from the committee on the eminent domain, etc., of the state the usual and suitable provisions. The convention refused to print any of these reports for circulation, but passed a standing order to print one hundred and fifty copies of reports. Some unimportant resolutions were disposed of, and before noon the convention adjourned to Saturday morning.



On Saturday morning General Smith of Iowa, from the committee on the militia, reported an article containing something like the usual provisions on that subject. Mr. Meeker of Iowa, from the committee on internal improvements, made a report from that committee, also containing something like the usual provisions and leaving the door wide open to all the corruptions and ruin of the system which have so far prostrated every new state which has ever had anything to do with it. And do not be too sure that it will not be adopted; there is but too evident a shrinking on the part of the many members from all real progress in constitutional law, while they are in love with many absurd or doubtful plausibilities. Time only will decide.

An effort was made to go into the committee of the whole on the article on banks, which was objected to in order to give time for the minority report of Mr. Gibson, and the objection prevailed. Strange as it may sound to you, the result of real and thorough restrictions against banks and paper money was considered doubtful; and a feeler was thrown out in the shape of a proposition from General Smith of Iowa to commit the majority report to a special committee, of which he of course would be chairman, for the avowed purpose of stripping it of its stringent crudities, as the mover termed the penalties of the report. Out of this grew some discussion in which Mr. Strong of Iowa and the chairman of the committee took strong and plain ground against all loopholes for banks and banking, and much was said of Wisconsin "hards" and "softs," when the convention adjourned till Monday.

On Monday morning there was a flood of resolutions, the result of Sunday's leisure, I presume. Among them was one offered by General Crawford of Milwaukee, advocated by that gentleman in quite a speech, to abolish all laws for the collection of debts, and which on his motion was referred to a special committee. The committee on finance by Dr. Judd, their chairman, reported three articles covering the subjects committed to them. They are too long for me to remember the provisions exactly, but amongst them is one important provision that the state shall contract no debt beyond \$50,000, except by a vote of the people. This is some remedy but I do not think an adequate one to the proposed article on internal improvements. The convention then resolved itself into committee of the whole on banks and banking, Mr. Baker of Walworth in the chair. General Smith of Iowa proposed a substitute for the whole, which, while in all its material provisions copied almost verbatim

from the majority report, is well understood to leave the bars down in more places than one and rejects the penalties in toto. General Smith took occasion to be particularly severe, in his way, on Mr. Strong of Iowa and the chairman of the bank committee and gave them fresh and foaming the wrath he had kept bottled up over Sunday in reply to their remarks on Saturday. To this the former gentleman retorted with interest and the latter laughed; but the most notable fact in this little imbroglio was once more the smiling physiognomy of the gentleman from Winnebago, who turned full round from his seat and smiled and nodded his approbation and punctuation to the remarks of General Smith. The article and amendments were debated by the chairman of the committee, Mr. Kellogg of Racine, General Smith, the two Strongs, Mr. Chase of Fond du Lac, and I believe others. The article of the majority was amended by the chairman by inserting a clause to meet branches and agencies of United States and other foreign banks and by Mr. Kellogg by a clause including foreign bills under \$10. Mr. Hicks of Grant also offered an amendment to the amendment, substantially applying the prohibitions of the majority report to all bank paper whatever, pending which the committee rose and the convention adjourned.

On Tuesday the convention suspended the order of business and went at once into committee of the whole on the same subject. A debate ensued which lasted all day. The speakers against the provisions of the report took various grounds and proposed various remedies, all short of the article reported, and yet all professing to be strongly antihank. These were Messrs. Baker of Walworth, Beall of Marquette, Parks of Waukesha, and Judd of Dodge. The report was advocated by Messrs. Smith of Rock, Bevans of Grant, and Clark of Sauk. Mr. Dennis of Dodge also spoke, but on which side, if on either, I could not well judge. At five o'clock the committee rose without taking any question and the convention adjourned, refusing to hold an evening session.

On Wednesday, after disposing of several unimportant resolutions, the convention again went into committee of the whole on the same subject. The whole day was occupied in a very discursive debate, in which Messrs. Noggle of Rock and John Y. Smith of Dane advocated the majority report, and Messrs. Gibson of Fond du Lac, Burnett of Grant, Geo. B. Smith of Dane, and Randall of Waukesha opposed it.

This morning the convention again, after an hour spent in unimportant business, went into committee of the whole on the same

subject, and General Smith of Iowa amused the convention with a speech for the principles of the majority report except the penalties, while he did his severest to the advocates of it, which they seemed to bear with great resignation and placidity. Mr. Burchard of Waukeska (Whig) gave a kindred dressing to General Jackson, James K. Polk, and George M. Dallas, which I presume will be received in a like spirit of Christian forbearance. The only thing noticeable in these things was once more the self-satisfied countenance of the gentleman from Winnebago, who smiled on both efforts with a paternal air of approbation which savored much of the vanities of authorship. Some gentlemen went so far as to say that one of the gentlemen read from a paper in the ex-Governor's handwriting. At length, in the afternoon, the several questions were taken. Mr. Hicks' amendment to the amendment of General Smith was lost. Mr. Baker then moved another amendment to it, which professed to cover the ground of the majority report, except the penalties, but which the friends of the majority report denied, which finally carried. It adopted verbatim, or nearly so, the three first sections of the majority report, with two other sections directing the legislature of affix penalties but leaving private banking free and the right of discount, deposit, and exchange to corporations until the action of the legislature and power of the legislature should see fit. This was the fight and the result.

The committee then rose and reported. Mr. Ryan then offered his provisions with the penalties, which was voted down by yeas and nays by a large majority, which, when you see it, will tell its own story. The nays embrace pretty well all the [delegates from] Milwaukee, Waukesha, Washington, and Dodge. Mr. Noggle offered another amendment altering Mr. Baker's "severe penalties" for unauthorized banking to "imprisonment in the penitentiary," which Mr. Baker and his friends said would shock the sensibilities of mankind; and so it was voted down by yeas and nays, nearly the same vote as before. Mr. Ryan then offered another amendment excluding foreign bank notes under \$10 after 1847, and under \$50 after 1849, which carried by a close vote, most of the real antibank men then for the first time severing themselves from their allies, and the gentleman from Winnebago finding himself for once in an uncongenial crowd. Several other amendments were offered, and several questions of order raised, in which the Chair was evidently bothered, pending which the convention adjourned in a general, but very good-natured row.



Your antibank readers will judge for themselves; all is not lost yet, but it is more than probable that the door will be left open to private bank issues, which was openly advocated by several gentlemen during the discussion, and to the Milwaukee Insurance Company, which a gentleman from Waukesha said they had been on the trail of for five years, had never caught, and never would catch. I fear so.

Through all this are rumors of a new party, new men, new principles, new tests. Dodge and all his friends, and all the old known men of the Democratic party, both Strongs and their friends, Judge Dunn, etc., etc., are to be thrown aside, and a softer race is to take the field in their place. Gentlemen have been openly asked to join in this scheme, and I greatly fear many have answered in the affirmative who should have been more sensible, more grateful, and more consistent. The gentleman from Winnebago was here several days before the sitting of the convention, and his staff of new converts has been active in the maneuvers ever since, and every approachable delegate was approached as soon as he arrived. His presence and the presence of others of as little sympathy with Democratic principles would alone be sufficient to defeat this disgraceful and dishonest crusade with the people. But in the convention it has succeeded so far; almost every question has so far hinged more or less upon these machinations. If my paper was not filled, you should hear more of the echoes of the

LOBBY.

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[October 28, 1846]

MADISON, October 22, 1846

J. C. BUNNER ESQ.: \* \* \*

The convention on Friday last proceeded almost immediately on its meeting to the consideration of the article on banks. I will give you their principal doings, although probably not in their exact order of occurrence. Mr. Ryan severally offered four additional sections as amendments, being substantially the provisions of the majority report, without the penalties, not embraced in the substitute of Mr. Baker, adopted in committee of the whole, together with a provision excluding foreign bank paper under \$10 after 1847, and under \$50 after 1849. These sections were severally carried by majorities steadily increasing on each vote. Here was the first scattering of the combined elements which had for the whole week combated the majority report. In the debates which these amendments called out it was made clearly to appear that the substitutes



did not cover the ground they professed to cover, and that the door was left wide open to private banking and the operations of deposit corporations until the legislature should act, and if they never should act, forever. Here then the real antibank men left their bank associates and voted for the amendments of Mr. Ryan, while men who had been for a week professing to be in favor of all his restrictions except the penalties voted against those restrictions when shorn of the penalties. For a week the antibank men had been fighting against an enemy under their own flag, but here the real division first occurred; the question of restriction was nakedly presented and nakedly sustained or opposed. See the yeas and nays on these amendments; they tell the story.

Mr. Kellogg offered an amendment providing for banks of issue of \$50 and over, to be approved by a vote of the people, which was sustained by himself and Mr. G. B. Smith of Dane, and opposed by General Crawford. Lost; see yeas and nays.

Mr. Beall offered a substitute authorizing a system of banking, to be submitted to the people. Lost; see yeas and nays.

Mr. Tweedy then proposed a similar substitute embracing also the provisions of the New York general banking system, which he advocated with great ability, and said amongst other things that all in Milwaukee—Democrats as well as Whigs—with whom he has conversed on the subject were in favor of banks of some sort as a necessity. Lost; see yeas and nays.

Mr. Hicks offered his old substitute, which was also rejected; and the question being then taken on the report of the committee of the whole as amended, it was adopted by a large vote and recommended to the bank committee for arrangement and verbal correction, substantially and almost literally in the shape of the majority report and the amendments of the chairman of the convention to it adopted in committee of the whole, except the penalties. The convention then adjourned after the most exciting and important day's work they had yet had.

On Saturday morning Mr. Noggle made a report from the committee on corporations other than banking and municipal.

Mr. Ryan, from the bank committee, reported back the article adopted the day before, reduced in compass and altered in arrangement, but substantially as adopted, which the friends of the measure desired then to pass, but which on motion of Mr. Tweedy was ordered to be printed and made the special order for Monday.

The convention then adjourned at an early hour in the forenoon until Monday.

On Monday, after an hour spent in matters of temporary interest, the bank article again came up. On motion of some gentleman (I forget who) the exclusion of foreign bank paper after 1849 was reduced from \$50 to \$20. Mr. Hicks then offered an amendment to exclude all foreign paper after 1847, which was lost; and finally the article was ordered to be engrossed for a third reading by a decisive vote.

On Tuesday it was reported back, engrossed, and was finally passed by the convention, 80 to 24; see yeas and nays.

And so ends the bank battle. After every species of censure had been cast on the committee and the friends of their report, after evasive substitutes had been lauded and adopted, after the salutary and safe principle of minimum penalties had been scouted and rejected, the whole came back again to its original shape, excluding the penalties, section for section, and almost word for word as originally reported; and all the quibbles and evasions called in requisition failed ultimately of any effect, except to expose the inconsistency of their chief advocates. If you desire the test votes, do not look to the final votes but to the votes on Mr. Ryan's amendments. These were the first and last decisive tests between those who desired to see the door ajar and those who desired to see it closed forever. Thank God, if the constitution be adopted with this article, banks can never gain a foothold in our state. I have sent you the article as adopted, which will speak for itself.

The next subject was Moses M. Strong's report on suffrage, which has been in debate since Tuesday and remains still undisposed of. After various minor amendments in committee of the whole, the first serious question was on the motion of Mr. Ryan to substitute the ballot for the viva voce system, which finally prevailed by a decisive vote.

The next question was the right of negro suffrage. There was a very excited debate in which Mr. Gibson and Mr. Chase of Fond du Lac, Mr. Randall, and Mr. Tweedy in a very able and eloquent speech advocated the right, which was opposed by the two Strongs with great ability, and by Mr. Ryan, Mr. Whiteside, and others. The question was taken late yesterday evening, when only thirteen were found voting for it.

This morning Mr. Boyd of Walworth offered an amendment in committee of the whole, providing for a separate submission of the

negro question to the people, which was advocated by himself very ably, and also by Mr. Baker and Mr. Moore, and opposed by Messrs. Burnett, Moses M. Strong, and Bevans, and lost, 35 to 49.

In the afternoon came up the right of foreign suffrage, which was much discussed by Mr. Burnett, Bevans, and Barber, of Grant, and Mr. Parks of Waukesha, against the right, and by Moses M. Strong, Dr. Huebschmann, and Ryan and Harkin of your county in favor of it, when the committee rose and reported.

Mr. Burnett's amendment excluding unnaturalized foreigners after the adoption of the constitution was then put, and lost by a very large majority. See yeas and nays. The separate submission was then put to the vote by yeas and nays and lost, by 47 to 51.

Mr. Burchard then moved an amendment extending the right of suffrage to negroes, pending which the convention adjourned.

The article as it now stands is as it was reported in all the sections except the first and second. In the second "viva voce" is stricken out and "by ballot" inserted; and the first section is so amended as to admit to vote substantially as follows: First, citizens over twenty-one who have resided in the state twelve months; second, aliens of the same age and residence who have declared their intentions to become citizens and taken an oath of allegiance to the state and United States; third, Indians of the same age and residence who have been declared citizens by act of Congress; fourth, Indians of mixed blood who belong to no tribe and live a civilized life.

This is a great improvement on the article as reported and may be regarded in the light of a compromise, in which light it meets with general approbation here and will undoubtedly pass without further material amendment.

I have little more to add. Yesterday morning Mr. Strong of your county made an able report from the committee on the organization of the judiciary. General Crawford, from his special committee on that subject, reported an article "for abolishing laws for the collection of debts under \$100." The General is a good man and a good Democrat and figures as a sort of tame Davy Crockett in the convention.

We have had two distinguished visitors here: Mr. Barnard of Rhode Island,<sup>3</sup> who delivered a most admirable and eloquent lecture to the convention on schools, and Mr. Caleb Cushing, who did not deliver a lecture on China, to the great disappointment of everybody.

<sup>3</sup> Henry Barnard, one of America's greatest educators. From 1859 to 1861 he was president of the University of Wisconsin. Most of his life was spent at Hartford, Connecticut. Here he died in July, 1900, in the house where he had been born eighty-nine years before.



Little is doing in the way of new party figuring; the voting of the last week has somewhat disordered the elements of this scheme, or else I am greatly mistaken. Leaders have failed their troops and troops have failed their leaders more than once; still there is an effort to rally, and we are gravely told that the bank was no test question—oh, not at all: the elective judiciary—that is the test. Whether that untried and unauthorized test will fill its office in removing from the way of certain gentlemen whose ambition outruns their capacity the favorite of your county and other distinguished men remains to be seen; but such is the office it is intended to fill.

I wish I had room to give you an account of the attempts which were had about two weeks ago to organize a caucus, and which have substantially failed, but I have filled each letter with more important matters. Still I may find room for this another time, although for obvious reasons the caucus was not so accessible to members of the

LOBBY.

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[November 4, 1846]

MADISON, October 29, 1846

J. C. BUNNER ESQ.: I notice by your paper received this evening that the Milwaukee *Sentinel* is supposed to be lacerating the feelings of your correspondent. Not having seen that journal since the sitting of the convention, I am of course unable to judge of the degree of severity with which my scribblings are visited; but if you who are a judge in such matters will inform me of the proper degree of mortification to be felt on the occasion, it shall be felt accordingly forthwith. The lamentations of the Whigs and their new allies on the subject of banks are too common to excite much attention; and for all other matters of which I have spoken in my observations on the convention the Whigs here exult, and I think the Whigs everywhere have reason to exult in the crusade which has been on foot to divide the Democratic party for the benefit of a few hungry aspirants who with little other merit and no claims on the sympathies of the party seek to build their political fortunes on the destruction of better men. I notice some quasi Democratic papers lay the blame on those who resist this new movement; the fact is only useful to show in what quarters the movement found its origin; for the rest, it will sound ill in the ears of the Democratic people that the whole blame of this division is with those who stand for the whole party—whole in its true principles and its true men—and will not see prin-

principles, men, and all sacrificed to build up fortunes of a corrupt combination of bank Democrats, Doty men, and Tallmadge conservatives. Such is and has been the real issue. I now doubt whether it will succeed here; I never doubted that it could not succeed with the people. The old, known, and tried men of the party, whether tried in station or out of it, whether serving as officers or soldiers, with their good old General at their head, will not be thrown aside by a party who have never been ungrateful to their servants, never have forgotten true, staunch, and tested service, and who abhor all treachery, double-dealing, and time-serving. So much for so much. I resume an account of the doings of the honorable convention, who are kicking up such a dust all round.

The first business on Friday morning was the suffrage article. Various attempts were made to amend it, which all failed, and the article was finally ordered to be engrossed for a third reading by a very decided majority. This lasted till towards noon, when it was proposed to adjourn over till Monday, which was carried by a pretty decisive vote until the yeas and nays were ordered, when there was considerable of a small row, many backing out from the adjournment on the yeas and nays; but it finally passed by a small majority. Various reasons for adjourning were urged by the honorable delegates—all in fact but the true one, which I suspect was that they were heartily worn out; and I think the rest and preparation for business evinced this week seem fully to justify the recess.

On Monday, in a thin house, the suffrage article again came on the carpet, and after considerable sparring and maneuvering with a view to recommitting it for alteration, it was ordered to be printed as it then stood and made the special order for next morning. Then came up A. Hyatt Smith's report on the eminent domain of the state, which was taken up by the committee of the whole, amended by the chairman of the committee who reported it, and reported to the convention. Mr. Ryan moved as amendments three additional sections, providing: First, that the acquisition of property by the state, not necessary to the legitimate objects of government, except by grant or forfeiture, should be discouraged; second, that the expropriation of private property should only be made when necessary to the same objects, and then only on payment first made to the owner of the value assessed by a jury of the county; and third, that the state should not derive revenue from property expropriated from private persons; which failed by a decisive vote by yeas and

nays, which you will see. Mr. John Y. Smith then raised some questions on the distribution act, which it seems "is suspended by a state of war," whereby we lose our 500,000 acres on entering the Union. Much desultory debate then followed on the subject of Mr. Martin's very mean act for our admission, Uncle Sam's impositions on our territory, our razed boundaries, and of driving a bargain with Uncle Sam on the subject, when on motion of Mr. Ryan the article together with that on the act of Congress and that on boundaries was recommitted to the committee of the whole to be taken up in the order of the latter report, not then made. This is a very important subject, and I hope will be maturely considered and carefully acted on.

Next came up Adjutant General Smith's report on the militia, when the convention again resolved itself into committee of the whole. You doubtless have this report, which is a compulsory system of organizing and disciplining the militia. It found several opponents on the floor, as it would everywhere amongst the people, who have no notion of being be-drilled and be-bothered in time of peace that some quasi great men on a small scale may wear epaulettes and side arms, and some quasi great men on a larger scale may wear a comfortable salary in addition to the feathers and gold lace, e. g., adjutant generals. The first attack was by Mr. Chase of Fond du Lac, who proposed a substitute based on the principle of enrollment only in time of peace. This attack was most valorously resisted by the gallant chairman of the committee and the no less gallant General Crawford. Mr. Strong of your county, who opposed the report, ventured upon a lament over the days of sweet cider and gingerbread with a mock pathos rivaling Burke's lament for the days of chivalry; for which innocent display he was for the hundredth time pounced upon by the military heroes and their friends of the new order as if he had been a public traitor, with insult and accusation of all sorts. Mr. Strong is too patient and too gentle a man for the daily scenes of almost gladiatorial contention into which every man is forced who does his simple duty in the business of the convention, if in doing so he happens to fall foul of the hobbies ridden by the accomplices of the new scheme. Pending these discussions the convention adjourned at a late hour.

Next morning the judiciary committee reported by the chairman. The article reported, is I believe, longer than all the other reports yet made together. Some men take a wonderful amount of words to a very small modicum of ideas—a great deal of milk to a very little



water. The article provides for: First, A supreme court of three judges to be elected by the people at large for six years; salaries, \$1,500; to hold supreme courts in each circuit every year. Second, five circuit judges to be elected by the people of their circuits for five years; salaries, \$1,200; to travel the state; probate judges, and justices of the peace, with jurisdiction to \$100. The article also provides for taking equity testimony in the same manner as law, and districts the state into circuits. Your county goes with Walworth, Rock, and Green. After reading this article the chairman, Mr. Baker, announced that he had a further report, which he read. He also stated that the committee stood 5 to 4 in favor of election of judges by the people, the division being well understood to be Messrs. G. B. Smith, W. R. Smith, H. Barber, and O'Connor for, and Messrs. Tweedy, J. Allen Barber, Baird, and Agry against the elective principle. The further report read by Mr. Baker was what all admit to be a very weak, unfair, pettifogging defense of the elective principle, of which the friends of the elective principle are on examination most heartily ashamed. With all the overzealous and intolerant bigotry of a new convert and with exceeding few lights of wisdom Mr. Baker has lost sight of or perhaps has never had a sight of the broad principles on which the elective principle is upheld or opposed by able men who have considered the subject; and his arguments in its favor are below the barroom standard of discussion, while the arguments he puts in the mouths of the opponents of the system and by implication into the mouths of the able minority of the committee are below contempt and never were used by any opponent of the principle certainly when free from barroom influences.

The reading of this document called up severally, I believe, all the gentlemen composing the minority of the committee, who severally disclaimed the arguments put in their mouths, who all denied that they ever heard of this argument until since the meeting of the convention that morning, and asserted that it had been agreed in committee to submit no argument on the subject, to save the necessity of a long minority report, and that they had been just choused by this game out of all opportunity of submitting such a report. Then followed a motion to print one thousand extra copies of this piece of barroom bombast, on which a very angry discussion followed. Many of the friends of the elective principle were opposed to printing because they did not choose [to have] their views so represented; several of the opponents of the principle desired to see



it go abroad in just this guise, while many others without distinction of opinion refused to depart from the general rule laid down as to all the reports. Among the rest Mr. Strong of your county was opposed to any indorsement of this affair by the convention, whereupon he was again grossly attacked and insulted on all hands by the new men, who of late never allow him to escape when he rises upon any subject. It all ended in ordering this expensive printing of a very indifferent written speech, every way inferior to a dozen talks made on some subject every day, by a large vote. This all lasted till well into the afternoon.

The convention then took up the militia, and after several attempts made by Mr. Strong and others to amend it, it was forced through verbatim as reported, by a very oppressive application of the previous question. I do honestly believe two-thirds of the convention were really opposed to the whole affair, as undoubtedly are a still greater proportion of the people, but the chairman had in his small way done service in the new cause, and this report was his hobby—which, like his military honor, he would have unsullied by a single rent—and it was passed unaltered to reward him; happy he who is so easily contented, through it prove a bitter pill to our unpugnacious people. Then came up Dr. Judd's report on taxation, finance, and public debt, on which the convention went into committee of the whole. After some explanation by the chairman Mr. Ryan moved to amend the article on taxation that all taxes should be by valuation on property pro rata. His colleague, Mr. Strong, rising to support the amendment, was pounced upon once more in vindictive personality by the gentleman from Dodge (Judd), who for perhaps the hundredth time it has been done, tried to array prejudice against lawyers. This brought Mr. Ryan to his legs with some emphasis, who dealt no sparring censure on the Jack-Cadeism of these low arts of demagogism and claimed that he and his colleague were there, not lawyers but delegates, and that not only were they, but their constituents insulted when in such a body a feeling was sought to be arrayed against them to disable them from enforcing the views and wishes of their constituents. Dr. Judd in reply made some assertion promptly denied by Mr. Ryan, from which the Magnus Apollo of Dodge County, in the language of the capitol, "crawfished" in regard to the terms of praise in which Mr. Ryan had spoken on the floor, of the legal abilities of his colleague, Mr. Strong. While the Doctor was sitting very uncomfortable under this necessity Mr. Strong arose and made a very dignified

and calm, defense of himself against these repeated personal attacks, which carried almost the whole house with it and completed the measure of the Doctor's penitence, which he half expressed in reply to Mr. Strong.

The committee then went to work on the report, the chairman having been thus scolded and coaxed out of his sensitiveness about all amendment, and the convention refusing to carry it through intact like its military predecessor. Up to a late hour this evening amendment has followed amendment in fast succession, and great has been the improvement of the article. The valuation principle is adopted, except for highway tax; several absurd exemptions are stricken out; the power to borrow contingent amounts up to \$50,000 well restricted and guarded; and all scrip forbidden, on motion of Mr. Ryan, who also moved and carried all the safeguards of the new constitution of New York, with other and more stringent restrictions on the general borrowing clause, which was, thus amended, stricken out by the friends of the amendments altogether; thus limiting the state to \$50,000 of debt at any one time, to be provided for by tax, and to be paid within two years—a great victory. The speakers in favor of these amendments were Hyatt Smith, Ryan, Tweedy, Harkin, etc. Then came up the internal improvement article, which was so amended that no state debt can ever be created for any such work. A great day's work was it not? A day's work which, if sustained tomorrow by the convention, will, with the bank article as adopted, forever save our young state from the misrule of corruptionists. Dr. Judd, however, announced his intention of doing dire battle tomorrow for the system, and the drill of tonight may succeed in restoring the report, with the amendments, however, without which the naked power of debt could not prevail after today's discussion. Immediately after the committee rose the convention adjourned.

I am always looking for the end of a short letter to add some reminiscences and speculations, but never find the short letter; so I believe I will within the coming week give you a separate infliction, if I do not in the meantime expire of laughter at the tricks played on the floor of this great con-sti-too-tion-al con-ven-tion as a member solemnly called it in my roost in the

LOBBY.

[November 18, 1846]

MADISON, November 7, 1846

J. C. BUNNER ESQ.: I believe I made a sort of promise to write to you a supplementary letter this week. I have some doubt whether this will reach you in time for your next issue; but today's proceedings have made this as seasonable an occasion for general speculations on the doings of the convention as any which will probably offer; and I do not know that it will make any essential difference when it appears.

And first for the proceedings of the last two days: Yesterday morning the convention after misspending \* \* \* the morning hour as usual resolved itself into committee of the whole on the "Preamble" reported by "the gentleman from Washington," Mr. Bostwick O'Connor, well and favorably known to most of your readers as an old resident of your county, whose happy migration to Washington County on the eve of the election secured him a seat in the convention, happily for himself and his new county. Well, the preamble was, not unlike its author, a plump, sleek, rather wordy and very harmless affair, with little positively objectionable and less positively meritorious about it. Some rather ill-natured comment had been made in a half jocose way about it, which alarmed the chairman for his bantling; and so even this squib of authorship was not considered below the protecting aegis of the party drill, to save it from all amendment. "The gentleman from Washington" has been considered useful in a way in the great Winnebago movement, and it was not honor enough that he had had a place on the judiciary committee; he, too, had a pet committee of his own, and a pet report to father, and it must be sustained unamended. So at the first symptom of amendment in committee a motion was made and carried to rise and report the article to the house, and then the previous question was sprung. Some very manly comments from Strong of Iowa made men ashamed of this game, but a very simple and sufficient substitute offered by Mr. Bevans failed even then; but the friends of the chairman were forced to strike out all mention of Mr. Martin's shabby act of admission, which took a few hard knocks in the discussion. So the matter passed, very unimportant in itself, but I mention it to show the state of feeling and the *modus operandi* here.

After this little skirmish the report on municipal corporations made by Mr. Bevans was taken up and amended by very judicious



propositions made by Mr. Tweedy. As amended it proposed general laws of municipal incorporations when practicable, special acts where general laws are found insufficient, and a debt-restraining power which was still very incomplete, when the whole subject went over to the next day.

Then came up the executive in committee of the whole, when the committee refused to adopt Mr. Ryan's amendment to abolish the office of lieutenant governor and got into a general scuffle on salaries; they were finally fixed—governor, \$1,500, to reside at the seat of government; secretary, \$1,000, and while discussing the rest the committee rose and reported. Before that they had, however, refused to adopt an amendment offered by Mr. Bennett to reduce the old-fashioned veto power as reported by the committee, but in the end struck out the section, which will probably leave the question to be disposed of in Mr. Strong's report on the legislature, which contains a provision similar to that offered by Mr. Bennett, by which a majority of all elected to each house can pass a bill after veto. The house then adjourned, the most noticeable thing in their afternoon sitting being the general good humor exhibited on all sides almost, during the overthrow of an amendment offered by somebody, to which the committee in a general outbreak of schoolboy fun tacked an infinite amount of droll amendments. Several recurrences of these follies of late indicate a much greater return to good humor and good feeling amongst the members than anyone would have anticipated a few weeks ago. Then with all, as still with a few, bitterness was too deep and earnest to admit of any rival; and even the expense of an afternoon almost wholly fooled away will not be altogether lost if it either bring men or be an evidence that they are brought to act together in such a kindly spirit as men owing the same party allegiance and professing the same party principles should act.

Today the convention sat only during the forenoon; but some of their doings were significant enough. Mr. Steele from the "miscellaneous committee," to which all the queer oddities of legislation are referred, made some very important reports. They refused to report the disqualification of clergymen, which General Smith had raked out of the absurdities of some of the older constitutions, reported a section prohibiting any law in restraint of trade, and another limiting leases of agricultural lands to twelve years.

Then came up the work of the day in the shape of a resolution offered yesterday by Mr. Magone, instructing the miscellaneous

committee to report an article disqualifying members of the convention from holding office under it for two years. A rider intended to kill the resolution was defeated, and the resolution passed finally by a vote of 47 to 42. The rider was then introduced in the shape of a separate resolution and carried, 48 to 39. This extends the disqualification of members and of all present territorial officers to the offices of representative and senator in Congress.

It has long been obvious that one of the great difficulties of the convention was the fearfully large percentage of office seekers sitting on the creation of the offices they sought to fill; each of these gentlemen has a fat office—some are understood to have several in case of accidents—and it is as easy as a glove for a looker-on to tell how many governors, secretaries, auditors, judges, etc., etc., there are in the convention. I believe your county furnishes so far no ambitious aspirant for any of these comfortable havings. The theoretic evil of this is sufficiently obvious; but no one not continually present can estimate the immense practical evil. The principle of excluding legislators from all offices which they create or the emoluments whereof they fix has been long engrafted on almost all the constitutions; and why it should not apply to a convention, with a force increased in the precise ratio of the relative importance of a constitution to the municipal law, is more than I can see. If an evidence of this truth were needed it was sufficiently obvious this morning in the fluttering of the wounded birds. I say the feathers flew. It was supposed there was little chance of mustering a majority for the original resolution; but the moment it was passed the desperation with which gentlemen threw themselves into the arms of the rider for the purpose of running the whole thing into the ground and the desperation with which some of them protested they had come there neither to build men up nor to pull men down, notwithstanding the insinuations of scribblers in 7 by 9 prints in obscure corners of the territory, was perfectly delightful to all admirers of self-detected guilt.

Between the glee of some of the friends of the original resolution and the desperation of its opponents the rider passed; but it is perfectly innocuous in itself as this convention has no power to take from or add to the qualifications of members of Congress fixed by the Constitution of the United States. The convention will never make itself so positively ridiculous as to pass a resolution so utterly beyond its power. The only interest in the rider is

whether it will be able to fill its office in killing off the original and most wholesome resolution.

Upon this I can give you no very clear opinion. Of the forty-seven votes given for the resolution, by far the greater part were given in honest conviction of the necessity of the resolution to purge the convention. Some few perhaps were given for buncombe; a few perhaps in sheer mischief; still it must be remembered that many votes, several from your own county, were cast against the resolution by gentlemen who have no aspirations for themselves or for their cronies; and many of these will very probably yet be given for the measure. On the whole, I hope it may pass.

No other thing can go so far to free the convention from very many dishonest influences which have been working in it. No other thing can go so far to set the acts of the convention in a favorable light before the people, who are looking with not unjust suspicion upon its eccentricities. I will risk all hazard of offense by saying that it is absolutely essential to the dignity of the convention and to the success there and before the people of the constitution. Some really worthy men may be put out of the reach of the people for a while, but to such it will be a sufficient consolation that "Sparta hath many a worthier son." It is only by those whose disqualification will be a blessing in all ways that the effect will be personally regretted.

Apropos of this, I will risk some good advice to the "honorable" of the convention, which I fear will share the fate of all good advice.

The news from Pennsylvania and Iowa and the apprehensions for New York, which I will still hope may pass away, ought to teach a lesson to the Democratic gladiators in the convention, who, in the absence of a natural foe, turn their weapons upon each other. Of the merits of the respective parties my opinions have been plainly expressed and are every day confirmed. I think there never was a party quarrel in which there was more plainly a right and wrong side. Still a party quarrel it is, stirred up by professed Democrats in and out of the convention, whose political principles are of the loosest, whose party allegiance is of the latest, men who have within these ten years run the gauntlet in every dishonest political heresy, fanned by the Whig press and the Whig leaders in the hope of a Whig constitution from a Democratic convention, and in the dearer hope of a Whig rule under it, built upon the ruins of a majority nullified by division. A party quarrel it is; not at all likely to pull down all men of old standing in the party, or to put in their



places some new men who are good men, and some new men who are new Democrats, if Democrats at all, as it has been intended by its getters-up. Of this I have no fears; but at the same time it is not at all unlikely to defeat the party for years to come. If I am to make a choice, it is easily made; a Democratic constitution and a Whig rule under it, rather than a Whig constitution and a quasi Democratic rule under it. But why such a choice at all?

I say to the committee, and I say it kindly and seriously, that apart from the views of a few men in and out of it, whose names are but other names for political profligacy or political vacillation, there is no real difficulty of a Democratic constitution, a Democratic majority for it, a Democratic rule under it. Look at Iowa and ponder well upon the lesson it gives! Constitution-making divided and defeated the party there. The votes of the convention so far on all the great questions of finance show a real Democratic majority, though not always easily found. Why then should not these men, however misguided by their faith in Democrats with Whig principles or with no principles at all, quit those false lights and desert those false leaders? Why should not the immense honest majority of the convention join cordially to save the Democratic party from those office hunters and new converts who are determined to rule or ruin it? And they are after all very few and in themselves very unimportant. Nay, if these very men really do not deserve such suspicions, why should not they, too, join in the good work, serving in the ranks they have so lately joined until their service there give them honest claims on promotion? Far better would it be that no member of the convention ever held an office than that Wisconsin should take her place among the states in a false position—false to the spirit of the age and of the country. The one may be a personal evil; the other is a national one.

I say to these gentlemen that a share in the paternity of the constitution is in itself a great honor if the constitution be what it should; rest there, and trust to the people for the result. Away with all schemes for new men or any men at all. Remember your responsibilities; give the people a worthy constitution from worthy hands; trust them with finding men. So you find the proper offices, they will find the officers and all will be right with the party and with you. Devise some means of reconciliation and peace amongst political brethren; let the closing scenes of the convention be its bright ones. Or, trust me, it will need no disqualifying clause to commit you all or almost all to the serenities of private life, even

if the party be not ruined in the scramble. Such is the judgment of the

LOBBY.

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[November 25, 1846]

MADISON, November 18, 1846

On Monday, the ninth, the convention resumed the consideration of the article on the executive, when after considerable discussion again on the subject of salaries, that of the governor was fixed at \$1,000, without requiring his residence at the seat of government, and the rest substantially left to the legislature; and the article was then ordered to its third reading. The separate submission of negro suffrage then came up, and a motion to lay it on the table was lost, 31 to 49, and it was referred to the committee of the whole in its order. Then came up General Crawford's article prohibiting collections under a hundred dollars, which was killed off by a vote of 63 to 18. The convention then went into consideration of Mr. Steele's article abolishing capital punishment, which was ordered to a third reading by a vote of 55 to 22. Several minor matters came up and occupied the remainder of the day. I forgot to mention that Mr. Tweedy (in the absence of Mr. Ryan, the chairman), from the special committee on internal improvements, finance, state debt, and corporations, made in the morning a very important report, which you will doubtless find in the newspapers. I will speak hereafter of its provisions. As you will see by the votes the house was daily thinned by the sickness of members or their families.

On Tuesday the first matter of interest was the article on counties and towns, which was opposed with much ability by Mr. Strong of your county and rejected, 10 to 69. I believe, however, that the most important provisions it contained will be found in other articles. The convention then passed the article on the executive, 69 to 10. Then came up the article abolishing capital punishment upon which a long discussion ensued, in which Messrs. Judd, Smith of Iowa, Barber of Grant, both the Strongs, Barber of Dodge, J. Y. Smith, and Chase of Fond du Lac participated, when on motion of its friends the article was postponed ten days. This is an important subject and was discussed with considerable ability. Perhaps my own bias may mislead me, but I think the friends of the article had the best of the discussion.

Before the convention adjourned the death of General Burnett was announced by his colleagues; suitable resolutions were adopted; and the convention adjourned over to Thursday.

On Thursday the articles on leasehold estates came up and underwent some discussion, in which Messrs. Harkin, W. R. Smith, Tweedy, and Chase of Fond du Lac advocated a restriction of leases of agricultural lands, and Mr. Strong of your county opposed the article, which was finally ordered to a third reading, 44 to 11. The convention then went into committee of the whole on the reports on the legislature. After some unimportant amendments General Smith moved an amendment providing that each county should have a representative in the lower house without reference to population, which was advocated by the mover, Judd, and others and opposed by Mr. Lovell of your county and Smith of Rock; and the provision was adopted as an amendment to the section providing single districts. A motion was then made to strike out the whole section, which was advocated by Messrs. Strong and Steele of your county and opposed by Mr. Tweedy in an able speech. The section was stricken out. Considerable debate then sprang up on the plan of apportionment, when the committee rose and the house recommitted the whole subject to a special committee of nine, to digest and report an apportionment. The committee consisted of Messrs. Moses M. Strong, H. Barber, W. R. Smith, Marshall M. Strong, Beall, Agry, Huebschmann, Baker, and O'Connor. The convention then adjourned.

On Friday the convention again resumed the articles on the legislature, raised the numbers of the two houses from 45 and 15 to 60 and 20, and made a general sweep of the restrictions of the legislature reported by the committee. Some good restrictions, however, were left; and the bill thus amended was ordered to a third reading. The article on the constitution of the legislature was postponed till the next day. The article on leaseholds was then passed, 70 to 9. This article limits leases of agricultural and mineral lands to twenty years—a good provision as it seems to me. The convention then went into committee of the whole on Mr. Ryan's report on internal improvements, finance, state debt, and corporations. The committee adopted the article on internal improvements without amendment; struck out the sections providing the manner of taxation in the article on finance; reduced the restriction on the debt-creating power from a majority of two-thirds of two legislatures to two-thirds of one, and then rose and reported.



On Saturday the convention resumed the consideration of the articles on internal improvements, etc., when Mr. Strong of Racine moved to strike out the first section of the article on corporations. Strong of Iowa, who had manfully advocated the provisions of the report in the absence of the chairman, moved a postponement till Monday, which was carried. The convention was then occupied some time in the discussion of a proposition made by the committee on the Waukesha contested election for power to send for persons and papers, which was refused. The convention then adjourned about noon to give committees time to digest their reports.

On Monday last the select committee on apportionment reported a plan on apportionment of a house of 62 and a senate of 21. This report gave rise to considerable discussion on the old ground, substantially, of giving a member to each of the thirteen small counties without regard to population. The principle of representation strictly upon population was defended at considerable length and qualified by some members. The report was sustained by Messrs. Strong and Ryan of your county, Strong of Iowa, and Baker, and opposed by Judd, Deming [Dunning], and Beall. This subject occupied the whole day.

On Tuesday the same subject was renewed. It was admitted throughout that the report was very imperfect—in particular favorable to Grant and rather unfavorable to your county—but as a compromise was perhaps as favorable as could be got. This day Mr. Lovell moved an amendment increasing the house by one member, taking one from Grant, and giving one each to Racine and Jefferson, which failed. Considerable debate ensued, in which both Strongs, Bevans, General Smith, and others took part. In the end the whole was again recommitted to a special committee of eleven, A. Hyatt Smith, chairman.

On this day also came up a new banking scheme offered by Mr. Reed of Waukesha, which he advocated in a set speech. Strong of Iowa moved an indefinite postponement, which was carried, 65 to 30. This proposition was—Heaven save the mark—for a separate submission of the question, which has been settled by the people these half dozen years.

Yesterday the convention again took up the report on internal improvements, etc., and went into committee of the whole upon it. The whole article on corporations was stricken out, leaving the legislature the whole old-fashioned corruptions of special legislation. The provisions were certainly stringent, very stringent, though I do

not think a whit too much so. At all events I hope this Democratic convention will not leave the hands of the legislature untied on this subject in the face of all the well-settled doctrines of the Democratic party. Then came up a resolution reported by the same committee, rejecting the Milwaukee and Rock River canal grant, which was advocated at some length by Strong and Ryan of your county, Hyatt Smith, Tweedy, Parks, and Graham, and opposed by Magone, Huebschmann, and Barber of Dodge. It was adopted by the committee, together with the other resolutions offered by Mr. Tweedy, asking Congress for the lands as part of our 500,000 acres. The next was a qualified rejection of the Fox River grant, which was opposed with great zeal by Baird, Beall, and Brace, and supported by the gentleman from Winnebago, who got in a very pretty triangular muss, to the great diversion of the house. The resolution was also supported by Mr. Ryan on the ground of the implied obligation on the part of the state to complete the work or refuse the amount received from the granted lands. The resolution was rejected. The committee then agreed to the last resolution of the report asking Congress to vary the grant of the 500,000 acres and of the five per cent on the sales of public lands for the use of schools and reported, when the convention adjourned at 9 P. M., this being the first evening session under a rule to meet three times a week at 7 P. M.

Today the convention agreed to all the amendments made in committee of the whole to the several articles embraced in Mr. Ryan's report and ordered them to a third reading. The provisions of the articles are substantially as follows, besides the resolutions already sufficiently explained: First, no internal improvements by the state, except where grants are made, and then no public debt nor pledge of public faith; second, all lands granted to the state, and not specially dedicated to other purposes, added to the school fund; third, no state scrip of any kind can be issued. Any deficiency in income to be provided for in the law of the ensuing year. No debt to be created but for necessary works of extraordinary expenditure, and then by two-thirds of both houses; never to exceed in the aggregate \$100,000, to be by loan on state bonds, not to be sold under par; the act to provide for annual tax equal to the interest, and tax to pay the principal in five years; these taxes ir-repealable until the debt shall be paid, and specially appropriated to the payment of the principal and interest respectively. With other good but minor provisions.

A great work is it not?

The convention then went into committee of the whole on the article on the judiciary. The power to create separate courts of chancery was stricken out almost without opposition. The next question was on a motion to strike out the separate supreme court, which was debated at length with much ability. The motion was sustained by Barber of Grant, Ryan, Strong of Racine, and Tweedy, and opposed by Baird, when the committee rose and the convention adjourned.

I have thus brought down your account of the proceedings to the present time. Much work has been done as you will perceive, though most has been anticipated as to comment in my former letters. The motive of all these proceedings has been the nice notion of giving the new men a snug strength in the legislature by representing thirteen little counties of the north, over most of which the gentleman from Winnebago is supposed to rule supreme. This idea of representing territory and not people is supposed to favor the views of the new order in all things, but in especial in the prospects of the gentleman himself or some of his adherents of getting into the United States Senate.

How this will result it is impossible to say. I have great fears that it may carry, as it is well understood that Mr. President's committee gives this scheme a large majority. A more unrighteous movement to override every principle of representative democracy to favor a ruinous scheme of self-aggrandisement set on foot by men long since condemned by the people, I never have heard of. I have now no time to say more of it.

By the way, I forgot to say that Mr. Baker, the original author of one of the lost substitutes for the bank article, but who finally voted for the article, today gave notice of a motion to reconsider the article. This scheme has been long on foot, and a desperate effort will be made to soften the restrictions of the article. There is a great manufacture of public opinion in favor of banks carried on here, and what the result will be I can not say. I am glad, however, to see the real antibank men standing resolute to fight all efforts to restore the infamous bank power; and from their zeal and unanimity I augur the best for this most righteous restriction on the legislative power. I think your county will furnish ten votes against all efforts to restore the bank power, perhaps more; and if other really Democratic counties do their duty in proportion, all will be safe. However, I have neither space nor disposition for further comment, but



shall continue to advise you of the doings of this great body, as I catch them from the

LOBBY.

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[December 2, 1846]

MADISON, November 20, 1846

J. C. BUNNER ESQ.: The first business of moment this morning before the convention was a resolution for a general banking system, opened yesterday by Mr. Hicks (Whig) of Grant, who gave notice some weeks ago of a motion to reconsider the vote on the bank article, prior to the notice given by Mr. Baker.

This project was on motion of Mr. Chase of Fond du Lac postponed indefinitely by a large vote. Mr. Hicks then moved the consideration of the vote on the bank article in pursuance of his notice. A call of the house was then ordered, and after a considerable time the sergeant at arms brought to the house every member remaining in the village, when 106 members answered to their names. The previous question was ordered and the vote taken without debate amidst the intensest excitement of the house.

To account for this excitement you should know that ever since the passage of the article the members from certain counties have thought and spoken of almost nothing else and that an immense manufacture of public opinion against the article and in favor of banking in some shape has been carried on by these gentlemen and the local satellites of the great northern leader in this vast city of Madison. These few days back all these gentlemen have spoken in anticipated triumph of the resolution as a certain result; last evening it was well known that a Whig caucus was held to aid in the plan; and this morning the most indifferent spectators could not help observing an air of triumphant resolution indicative of successfully schemed mischief.

Well the vote was taken by yeas and nays and resulted, yeas 53, noes 53; and so the house refused to reconsider and battened down the hatches on banks and banking. You could hear many an anti-bank man draw a long breath of relief from suspense and anxiety as the President announced the result, but the "successful" bore the triumph meekly. Not so the disappointed; deep, bitter passion was on many faces; words of little meaning were spoken in various tones of most significant anger and hostility; a great mine had exploded and hoisted the engineer with his own petard. I would do in-

justice if I did not here except the gentleman from Winnebago, who bears alike hard knocks and deep disappointments with unexampled placidity, and whose face wore its usual smiling resignation under this severe visitation upon his plans. A great man for a politician would be the gentleman from Winnebago if he could bear the triumph of successful cunning with the same equability he bears disappointed hopes.

The yeas and nays will tell you the story, but not with universal accuracy. Several staunch friends of the main features of the bank article voted for the reconsideration under various influences. Many desired the sixth section stricken out entirely; many wished its restrictions as to foreign circulation reduced in amount; most of these voted for the reconsideration, although personally satisfied with the provisions themselves, yet thinking from all the fictitious opinions daily retailed to them that by altering this section the constitution would gain friends and votes. They were led to the belief that the sixth section was the only object of the reconsideration and really supposed the vote was substantially a vote to reconsider that section only. Others who have doubts as to the popularity of the sixth section knew too well the object and knew too well that if the reconsideration should carry, the whole subject would be afloat again, and that Heaven alone could tell when and where it would again come to land. Amongst those who believed in the sixth section, but were willing to modify or abandon it for the sake of harmony, and in that view only voted for the reconsideration, I may instance Mr. Hall of your county, a Democrat as staunch, a man as good and true as any in the convention from your or any other county; I wish all were of his true and steadfast stamp. I might instance of my own knowledge several from other counties; but I only speak of the only member from your county voting aye, with whose reasons I have become acquainted; I am strongly inclined to believe the same views govern another of your delegates also. Every Whig on the floor voted for the reconsideration except Mr. Elmore, who boasted of being a progressive Whig, and is a strong antitariff and antibank man. So much for the Whig caucus.

So endeth the second lesson. Tonight the disappointed hold a meeting; what to do or how to result I cannot say.

I greatly regretted the time of this trial, just as the convention were beginning their work on the judiciary question, which was resumed this afternoon.

The whole afternoon was consumed on the pending amendment to abolish the separate supreme court, which was discussed by Messrs. Baker, G. B. Smith, W. R. Smith, and Judd, against, and Mr. Ryan for the amendment. Yesterday afternoon, before this amendment came up, Mr. Brace offered an amendment to test the question of election or appointment, which has here assumed a very exciting character as the proposed test question of the apostles of the new order. Mr. Ryan immediately rose and besought Mr. Brace to withdraw the amendment and stated as one in favor of appointment that he proposes and invites those who are with him on the question to join his plan to leave the exciting question of election or appointment to the last, and in the meantime to join all elective and appointment men fairly and candidly to make the article on its elective principle as perfect in detail as possible. To this all acceded, and congratulations passed all round the house upon the prospect of approaching and discussing the details of this great matter in a proper spirit of conciliation. In this spirit the debate yesterday was conducted. Today four speakers followed each other against the amendment. Mr. Baker just hinted at the elective principle being involved; Mr. G. B. Smith plainly asserted it; Mr. W. R. Smith dwelt upon it somewhat; Dr. Judd argued at length upon it, and asserted that the amendment was a trap to destroy the elective principle. It really seems to me that a question older and more important than any controversy about election or appointment and utterly independent of it might have been spared all this mischievous humbug after the conciliatory tone of yesterday; but so it was. Mr. Ryan indignantly denied the imputation and implored the committee to consider the amendment on its own merits; but I greatly fear that this game will carry through most of this weak and defective system on the shoulders of the district elective principle. In hopes, however, of a better result I will forbear present comment. This occupied the convention till five o'clock, when the house refused to hold their evening session.

November 21.—Today the first business of any moment was the bill of rights, reported back by the special committee to whom it was referred. Several amendments drew forth some little discussion of no very memorable character until Mr. Magone offered a new section intended to nullify the sixth section of the bank article and susceptible of a construction which would defeat other provisions of that article. This awoke the house very effectually. A call of the house was ordered, which occupied some considerable time; one or two



Whig members, who had been sick, soon assumed their seats, while many of the antibank Democrats had left for home. When the absentees were all reported present, Marshall M. Strong of Racine raised the point of order whether the amendment now proposed could be sustained, being in direct conflict with a provision already adopted by the convention, and in a very able address fully satisfied a large majority of the convention of the correctness of his position. The Chair, which was occupied by Dr. Judd for the day, probably in view of this very question, decided that the amendment was in order. Mr. Strong appealed, and a long debate ensued on the appeal, in which the President (Upham), Mr. Hunkins, Mr. Baker, and Dr. Judd argued for the decision of the Chair, and Messrs. W. R. Smith, Strong, and others impeached the decision, when the house by a large majority decided against the Chair and the amendment was rejected as out of order. So endeth the third lesson.

This was a very important question, as it included the further question whether any of the business of the convention should ever be considered settled, or whether defeated minorities might continue forever to struggle against provisions already adopted, and thus the convention go on, as members friendly or opposed to any particular measure might come and go, piling contradictory enactment upon contradictory enactment like two scolds struggling for the last word. The decision of the house was an honest condemnation of this see-saw folly.

The bill of rights was finally ordered to be engrossed for its third reading, and the convention adjourned.

I gather that the bank meeting last night proved a flash in the pan, and that the more judicious of their men think the veto on the reconsideration a final disposition, to which they are inclined to submit. Whether this good judgment will govern them to the end remains to be seen.

The out-of-door conversations of the bank men since the vote on reconsideration discloses such views on their part as would greatly lessen their strength on that vote were it to be taken again. As a component part of the present bank article they desire to retain the sixth section, which they believe improves the article as a whole upon the ground that if we are to have no bank issues of our own it is absolutely necessary to reduce the small circulation of other states, with which we are now flooded and which must inevitably depreciate from time to time. But these gentlemen take the ground that they are opposed to all restrictions and want some banking system. Of course there is no sympathy between these and the op-

ponents of the sixth section; and I think these disclosures of views render the final passage of the article certain even if parliamentary usage did not. I have made a calculation on a house of 106, which I deem nearly accurate, of the strength of the article and of the sixth section. Opposed to the sixth section but friendly to the article, 16; opposed to the sixth section and to the article, 21; opposed to the article, but in favor of the sixth section as part of it, 14; in favor of the article and of the sixth section, 55. So the several questions would stand thus: On striking out the restraining clauses, ayes 35, noes 71; on striking out the sixth section, ayes 37, noes 69; on striking out the article, ayes 35, noes 71. So I think the article is safe as it stands; still as many set down in my calculation as friendly to the article are not so steadfast and resolute in their views as might be desired, and the fourteen may be induced to vote against the sixth section first, in hopes of destroying the rest afterwards, it is extremely problematical in what shape the article may come out, if by any contrivance the question should ever again be opened.

November 23.—The first matter before the convention this morning was a resolution offered some days ago by Mr. Ryan as a substitute for the rejected resolution reported by the select committee on internal improvements, etc., providing for a qualified acceptance of the Fox and Wisconsin rivers grant on condition that the act making the grant should not be so construed as to involve any obligation on the state to expend anything more than the proceeds of the grant on the improvement of those rivers, or any liability on the part of the state to refund the amount realized from the grant, which should have been expended on the work. The act as it now stands obliges the state to finish the contemplated improvements in twenty years or else refund the amount realized from the grant. Almost all admitted the propriety of some such resolution, but a fear of losing votes for the constitution defeated this resolution and its predecessor; it was indefinitely postponed by a large vote.

Then came up the articles on internal improvement, finance, state debt, and the resolutions on the subject of the Milwaukee and Rock River grant, and devoting the 500,000 acres and the five per cent on the sales of public lands to the school fund, on their final passage as one article, being all reported by the same special committee. Hereupon the chairman of the standing committee on finance, etc., Dr. Judd, perpetrated for an hour another of his scenes of resistance to the great majority of the convention in an attempt against all the rules of the house to restore some parts of his




original report; the convention and the rules were rather too strong for him, however, and lost time was the only result; the articles were passed by a handsome majority. Then came up the amended bill of rights on its final passage, when the gentleman from Dodge moved to postpone it also, but it passed likewise by a large vote. The convention then went into committee on the judiciary article and spent the balance of the day till nearly ten o'clock P. M. in discussing and amending it.

Various amendments were adopted, all materially improving the article. The principle remaining in my recollection I will state. On motion of Mr. Strong of Racine the offices of clerk of the circuit court and register of deeds were consolidated, and the emoluments of the office limited to \$1,500 per annum and twenty-five per cent of the surplus over that amount, the balance to be paid into the county treasury. On motion of some gentleman, whom I do not recollect, the jurisdiction of justices was stricken out and left wholly with the legislature. On motion of Mr. Parks of Waukesha power was given to the legislature to establish inferior county tribunals. On motion of Mr. Tweedy of Milwaukee the term of clerks was reduced to two years. I forgot, by the way, to give you the first question taken on the pending question between the separate supreme court and the nisi prius systems, which was compromised on an amendment offered by Hyer of Dane providing at present for the nisi prius system with five judges, but giving the legislature power after five years to establish a separate supreme court. This account gives the principal results of today's work on the article so far as I can recollect. There was considerable quiet and good humored debating on various questions. It was a better day's work than my hurried and brief account will enable you to judge.

Dr. Judd this morning gave notice of another move against the bank article, which I venture to foretell will utterly fail, but which shows the desperation of the bankites. Some men seem to recover their equilibrium in a day or two; but a disappointment in the darling schemes for the associated glories of banks, state debt, and internal improvement is too much for even time to console with some of the friends of those financial conveniencies.

November 24.—This morning came up the reports of the special committee to whom the disqualifying resolutions were referred. There was a majority and a minority report, the former coming from the opponents, and the latter from the friends of the disqualification of members of the convention. The former mixed up together in

one section the practicable disqualification of members to holding for two years the offices they themselves create and the impracticable disqualification of members and territorial officers to be senators and representatives in Congress; the latter report separated the two into distinct sections. A motion to postpone them indefinitely having been made, and a division of the reports ordered, they were separately consigned to the indefinite future, all the friends of the real measure voting against postponing the minority report and mustering only 38 votes (I think). So ends this matter, with a little crawfishing. This and other matters having occupied the morning hour, Dr. Judd's bank resolution did not come up. 

The convention then resumed the judiciary article in committee of the whole. A great variety of amendments was offered and disposed of. The principles recollected are these: a disqualification of judges of the supreme court to be revisors of the laws, on motion of Mr. Ryan of your county; and a series of propositions on that grievous eyesore to the convention, the legal profession. The section in the article reported was copied verbatim from the new New York constitution. Various amendments were offered to this: One moved to strike out the good moral character, another the requisite learning, etc. Mr. Ryan begged the convention if they did anything on the subject to do it seriously and upon one or other of these principles—either to close the door fast and admit none but persons really qualified, or else to throw the door entirely open and abolish the profession altogether. With these views, he had written two amendments, one upon each principle, and said he was himself personally indifferent which should be adopted. He thought the indiscriminate license the best for the profession, the strict rule of admission the safest for the people; but either would work better than the present loose admission under a pretended strict rule. He finally offered the former plan to test the views of the committee, and it carried. The whole article having been gone through, the committee rose and reported. All the amendments were severally adopted substantially as reported, except that in relation to the lawyers. On motion of Mr. Huebschmann, for what reason he and the majority can possibly tell, the part of the amendment abolishing the profession was stricken out, while the license to all persons to appear as attorney was retained. Mr. Ryan then offered his other proposition, which provided that in two years all licenses should expire and none be granted save on public and full examination in open supreme court upon unanimous certifi-

icate of the judges of the full competency of the party. This was rejected by a large vote. Mr. Hackett moved to strike out the section—ruled out of order. Mr. Hackett then moved an amendment giving power to the legislature to make regulations to govern the profession—lost by a large vote. So the profession stands as a profession, while all can by their own mere act become members of it. I think the whole will be eventually stricken out. Mr. Ryan also moved an amendment making the nisi prius system permanent—lost by a large vote. The whole system is very greatly improved so far; the amendments were so numerous, however, and needed so much comparison and adjustment that on motion of Mr. Strong of your county it was recommitted to the judiciary committee for that purpose. The convention then adjourned.

November 25.—The convention this morning took up Dr. Judd's resolution on the bank article, which after an ineffectual attempt to lay it on the table was postponed till Monday next. Then came up the article offered some time since by Mr. Randall for a separate submission of the negro suffrage question to the people. It was amended on motion of Mr. Strong of Iowa giving negroes also the right of holding all offices, and in this shape, after much discussion and delay, was ordered to be engrossed for a third reading. The real vote gave it a majority of one, but some two members changed their vote for the purpose of moving a reconsideration, which was then made and lost by a majority of four. It may yet pass on its final reading, or it may not; this greatly depends on the absentees. In a full house I do not think it would pass. In the meantime it has stirred up a great deal of excitement amongst the western members and has been productive like every new move on the bank question of much additional discord in the convention.

The next business was the final passage of the article abolishing capital punishment, which you will recollect was ordered to be engrossed for a third reading by a large vote and then postponed to this week. Some discussion ensued upon it, in which the article was advocated by Messrs. Ryan, G. B. Smith, and others and opposed by Dr. Judd, Mr. Tweedy, Mr. Drake, and Mr. Kellogg. It was rejected by a very large vote. There is a very large majority in the convention in favor of abolishing capital punishment; the defeat of the measure may be attributed to two things: First, the very defective shape of the article; second, a recent conviction for murder. The former reason was assigned by several members for voting against the article; and although I do not believe that any, certainly



very few were influenced in their votes by a desire of any unfortunate's death. Yet I have heard many intelligent members express their conviction that political reasons growing out of the conviction had operated on the minds of several. These reasons may be readily guessed. Most of those voting against the article expect the state legislature to act on the subject; but if this convention shrink from that responsibility, Heaven knows when the legislature will assume courage to dispense with this time-honored barbarity and folly.

This occupied the convention till the hour of adjournment. In the evening session (a great failure by the way, as all overworkings of man or beast are) in a very thin house the article on municipal corporations having been passed to a third reading, a resolution offered by Mr. Noggle altering the rules was taken up. This resolution provides that instructions may be given to the committee of revision to alter any article in substance and that such instructions shall not be debatable. This is another of the attempts to give a majority of a thin house the power under the gag of defeating all the matured work of the convention. There was this evening an attempt to force it through in a very thin house, but the attempt failed, and the convention adjourned without any action upon it.

If this resolution or any similar one should pass, adieu to the constitution. The house is now daily thinning, and few of the absentees will return, the day of adjournment being so near. Opportunities will be watched and noses will be counted, and whenever an accidental majority may be raised against any provision adopted the instructions will be moved and so the labors of the convention nullified. The dangers of the bank article have greatly increased since I commenced this letter. I am now clearly of opinion that if by any maneuvers the sixth section should be stricken out, the whole article will fail, and the state will be forever saddled with banks, chargeable to the Democratic party, forsooth. Some men are now saying that they cannot support the restraining clauses if the sixth section is stricken out. Coming events cast their shadows before.

November 26.—The convention sat only for a couple of hours today, this being Thanksgiving Day, and the able and excellent chaplain of the convention, Mr. McHugh, having [been] appointed to deliver an appropriate discourse to the convention. The only matters acted upon were a couple more resolutions of disqualification offered by Mr. Magone, which were summarily disposed of by large votes. So ends all hope of disqualification, while every day's experience seems to strengthen the necessity for it in the plain and

obvious acts of men who have more zeal in making capital than in making a constitution, and who are too often seen sacrificing the constitution to capital.

Some several propositions were made to alter the rules so as to leave all the action of the convention in the power of the logrolling majority of the thin house which may be here at the closing scene. How all this may end is exceedingly doubtful; no man can see his way. There is, I think, a decided majority of a full house in favor of all the great measures already passed; but in all probability in another week there will not be over eighty or eighty-five members in their seats, and but too many delegates are prone to compromise with the new men for capital.

LOBBY.

P. S.—I forgot to say that although Tuesday next is the day fixed for adjournment there is no hope of any such fortunate event for ten or fifteen days after; and if the rules are destroyed to favor the bank men, a month more may see the convention busy in its labors of crawfishing.

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[December 9, 1846]

MADISON, December 4, 1846

J. C. BUNNER ESQ.: On Friday morning last the first business of any importance was a resolution previously offered by Mr. Strong of your county, so altering the standing rules as to allow any ten members to call for a vote on any section of the constitution as previously adopted in the several articles, and then if a majority should not vote for it, the section to be rejected from the constitution. Mr. Baker offered an amendment authorizing any twenty members to offer new matter in a similar manner. During some discussion of this resolution and amendment, in which all the old bank and antibank feeling became once again reëxcited, Mr. Strong of Iowa raised a question of order whether it would not require a vote of two-thirds to carry this resolution altering the standing rules, the rules so providing in express terms. Everyone knew it could never get such a vote, and Mr. President decided that a majority would carry it, in utter disregard of the rule requiring a two-thirds' vote to alter the standing rules. From this most unjust decision Mr. Strong appealed, pending the discussion of which the morning hour expired. So you see it is yet to be determined whether the convention has again to travel over all the old ground. God knows the time or character of the result if such should be the decision of the convention.



The convention then went into committee of the whole on the articles on eminent domain and the act of Congress for the admission of the state and boundaries. After the former was passed as previously amended Mr. Holcombe of St. Croix moved an amendment to our boundaries, cutting us off from Lake Superior and the river St. Croix and leaving out a large territory in the Northwest. Mr. Holcombe very justly complains that the present boundary cuts in two the St. Croix settlement which he represents. The amendment was sustained by the mover and Mr. Strong of Iowa, and opposed by Smith of Iowa, Baker, Baird, and Ryan, and was withdrawn for the present. In order to allow Mr. Holcombe an opportunity to perfect his amendment the subject was postponed till the next day.

The convention then went into committee on the article on schools. On a motion to insert a salary of \$1,500 to the state superintendent quite a debate sprung up, in which the whole system of superintendence was very ably discussed. This brought the evening to a late hour, and the convention adjourned without taking the question.

On Saturday the first noticeable thing was the schedule for the organization of state government reported by Mr. Beall. This article amongst other things sets off the Congressional districts. And where do you think Racine finds itself in this precious piece of gerrymandering? Why, sir, Racine, Walworth, Rock, Green, Iowa, Grant, Crawford, Richland, Chippewa, St. Croix, and LaPointe compose the first district, and the remainder the second—Racine and LaPointe! Lake Michigan on the southeast corner and Lake Superior on the northwest! Sweet Mr. Beall, Gerry Mander might go to school to you. And why? Tell it, oh great Æneas of the North; tell it, oh thou his fidus Achates from Marquette! Guess it, ye incorrigible Democrats of Racine! I will make no comment for fear of exhausting your fount of notes of admiration.

Then came up the article on municipal corporations for its third reading; and the first question being on filling a blank in the percentage of taxable property to which a municipal corporation might be authorized by law to run in debt, a long debate sprung up, in which Strong of Iowa, Chase of Fond du Lac, Bevans, and Baird, opposed the article, which was defended by Strong, Lovell, Ryan, and Harkin of Racine, and Tweedy, when the blank was filled with ten per cent, and the article was rejected by a large vote. I am sorry for it; the convention before refused to restrict the legislative power of private corporations, and now of municipal corporations. The article was an excellent one, mainly proposed by Mr. Tweedy, for

which I think I gave him proper commendation before; I should have waited, however, for he finally voted against the passage of his own article. The excuse he assigned for this was an amendment adopted on motion of Mr. Strong of Racine on a former day, giving the legislature power to repeal any act of incorporation, being precisely what Mr. Tweedy voted for in the article on private corporations. So much for a little Whig capital and Whig consistency. I am more surprised at this in one whose general course at first was marked by great fairness and great ability.

The article on eminent domain was then passed by a large vote.

The article on boundaries then came up. Mr. Ryan moved to recommit it with instructions to report the northwestern boundary on the British line, which was lost, 21 to 64. Mr. Holcombe then presented his boundary in the shape of a request to Congress, which was advocated by himself and Mr. Tweedy in very able speeches and opposed very ably also by Mr. Brace. It was finally carried 49 to 38, and the convention adjourned.

On Monday the resolution to adjourn on Tuesday was reconsidered, since which no time has been set for adjourning.

The resolution for a separate submission of negro suffrage was then taken up and finally passed, 53 to 46. I am sorry for this as, although there is no reasonable chance of its being confirmed by the people, the west does not think so, and it will there cost the whole constitution many votes.

The next business was the article on the judiciary. The amendments reported by the committee (mostly verbal) were acted on. Mr. Ryan then moved to recommit with instructions to report an amendment on the following principles:

First. The judges to be appointed by the governor, with consent of three-fourths of the senate.

Second. The first five judges to hold their offices for one, two, three, four and five years, respectively.

Third. All appointments to fill vacancies to be for the unexpired term of the judge vacating the office.

Fourth. All future appointments to be for five years.

Fifth. When the term of a judge should be about to expire, the governor to notify senate, senate to vote upon incumbent's continuing in office; if three-fourths should vote for his continuance, the judge to retain his office for another term; if not, the governor to nominate his successor.

Sixth. No judge to be eligible to any office, except judicial, during his term of appointment.

Mr. Ryan addressed the convention at some length in support of his motion and was followed on the same side in a few words by Mr. Tweedy. Messrs. Bevans and Baker of Dodge replied, when the question was taken up and lost, ayes 20, noes the rest. Mr. Lovell then moved an amendment providing that the judges be elected by the state at large; lost, ayes 28, noes the rest. Mr. Lovell then moved another amendment doing away with the traveling system; lost. The article was then ordered to be engrossed by a large vote. Altogether it is the weakest article yet reported, but far, far better than adopted. It must be tried and as the judgment of a large majority ought to be tried; but I venture to foretell that the people on a fair trial will utterly condemn it before the first batch of judges vacate their seats.

The article on boundaries then came up, on which the remainder of the day expired. To explain the discussion it is necessary to give the heads of the sections.

First. Wisconsin assents to the boundaries offered by Congress, *Provided*, That she does so for the purpose of obtaining admission, and asserts her right to all that has been claimed under the Ordinance of 1787.

Second. Wisconsin agrees to submit the question of boundary in dispute with Michigan and Illinois to the Supreme Court of the United States for adjudication.

Third. This ordinance irrevocable.

Mr. Strong of Racine moved to strike out the proviso. On this a long discussion ensued on the rights and powers of this territory under the ordinance, in which the proviso was supported by Messrs. Doty, Smith of Iowa, Jenkins, Burchard, and others, and opposed by both Strongs, Ryan, and others. The house refused to strike out. Moses M. Strong then moved an amendment to it, providing that if Congress did not assent to the proviso, it should go for naught; carried. Mr. Ryan, observing amidst the laughter of the house that the whole now read "We assent to the boundary, provided we won't, provided if Congress insists upon it, we will," moved to strike it all out; carried. Mr. Strong of Racine then moved to strike out the second section, which he said was now of no use, as no controversy remained to submit. To the surprise of the spectators this was opposed by the chairman, the gentleman from Winnebago, whose face wore a shrewd smile, and his friends, and was rejected. The house then adjourned.



On Tuesday morning the subject was resumed. Mr. Doty offered once again the original proviso. The Chair decided that this mode of circular proceeding, by inserting, striking out, and re-inserting, was in order; and the convention on an appeal taken by Strong of Iowa sustained the decision.

Mr. Strong of Iowa then offered an amendment so altering the proviso as to make it a request only to Congress; carried. The question on the proviso as amended was then taken and lost.

Mr. Holcombe again offered a new boundary on the northwest, leaving us our shore on Lake Superior, but cutting off the St. Croix; lost.

Mr. Hicks then offered an amendment claiming the boundaries of the Ordinance of 1787; lost.

Mr. Strong of Racine then moved to strike out the second section. Opposed as before, to the wonder of everybody, and the motion was lost. The article in this shapeless state, apparently, was then ordered to a third reading, and the convention then adjourned.

On Wednesday morning the article on the act of Congress for the admission of the state was read a third time and passed. The article on the judiciary was also read a third time and passed.

Then came up the article on boundaries—and the scene of the session. It seems that the committee on engrossment in comparing the article discovered by mere accident a most precious mistake in it. I will explain.

The section commenced (I quote from memory, but substantially correct): "The state of Wisconsin doth hereby consent to the boundaries prescribed to her by the act of Congress of 6th August, 1846, as hereinafter contained, which said boundaries are as follows, to wit: 'Beginning at the northeast corner of the state of Illinois; thence,' etc., etc., and so at the end of the description "to the northern line of the state of Illinois," thus quoting by pretence literally from the act of Congress. Now how says the act? "Beginning at the northeast corner of the state of Illinois, which said corner is the point where the degree of 42° 30' north latitude intersects" etc., etc., and so at the end "to the northern line of Illinois as fixed by the act of \_\_\_\_\_ day of \_\_\_\_\_ 1818." I still quote from memory, but correctly in substance. So by this false quotation from the act, in apparently assenting to the act of Congress, apparently abandoning all further claim of boundaries, except as conditionally named in the proviso, the convention was keeping the whole question still open by a palpable fraud; or rather



the convention was almost misled to practice this imposition on Congress as it has been practiced by her.

When this exposure was made the gentleman from Winnebago, like Hick Biddle as placid as a summer's morning, smiled and smiled and was \* \* \* He took the whole with amazing coolness and said it was all the same in substance, no mare's nest at all. Not so his friends; they avowed they had understood it all the time, and laughed at gentlemen who said they had taken the truth of the quotation for granted and never examined the descriptions in the article. A somewhat "strong" discussion followed, in which Messrs. Strong of Iowa and Ryan handled the mistake and the mistaken without gloves. The friends of the article, foreseeing its most worthy rejection, took refuge in a reconsideration, which they carried.

Moses M. Strong then moved a substitute containing a simple assent to the boundaries of the act of August 6, 1846; lost, 48 to 54. He then moved another substitute refusing to assent to the boundaries of the act and setting up those of the Ordinance of 1787; lost, 20 to 80. The article was then recommitted to the committee of the whole. The subject has not since come up; but I think that the new discovery of this nice maneuver will effectually defeat the plan of bringing upon us an interminable dispute with Congress, which never has and never will admit a state with disputed boundaries, and keeping us for years out of the Union, in pursuit of an obsolete idea, that one man might ride a hobby into public favor. The credit of the discovery belongs to Mr. Lovell of your county. No man who ever doubted it before can now doubt the great influence in the convention of Governor Doty. This discovery would have blasted any other man, while he seems to live under it with perfect impunity.

The convention then went into committee of the whole on the article on schools. The committee refused to fix a salary for the superintendent. Mr. Ryan offered an amendment, devoting the income of the university fund to the support of normal schools until a university should be established; carried. Some other unimportant amendments were also adopted, when the convention adjourned at a late hour.

This morning the convention resumed the article on schools, when Mr. Ryan's amendment was disagreed to by the convention, and the article after some further amendment was ordered to a third reading. It is a very fair article.

The convention then took up the article on the legislature, the first question being on the apportionment reported by the committee of eleven to whom that matter had been referred. This report makes a house of 79 and a senate of 21, in which Racine has 2 senators and 10 representatives. As a general thing its fault is size, although it is quite too liberal to the small counties. It was adopted as a compromise. Mr. Ryan offered an amendment providing for biennial sessions only; lost. Mr. Tweedy offered an amendment providing for single districts, which was advocated by him with great ability and opposed by Messrs. Ryan, Bevans, Harkin, and others on the ground of its present impracticability without sacrificing the principle of equal representation to equal population. It finally carried, when the house adjourned. I think it will be reconsidered as after its passage the impossibility of carrying it out was fully demonstrated.

When this great body will adjourn God knows. They can finish their unfinished business by Monday; but if the rules are thrown aside to accommodate minorities, Heaven only can tell when they will finish their finished business. Day by day resolutions are offered providing some escape from the bank article; these—probably a dozen in all—have been deferred until the committee of revision report, the antibank men being unable to kill them at once. All that has been done is in danger if, as is likely, several antibank men join in giving the bank men an opportunity of carrying out their plans. We shall see what we shall see—is all I can venture to foretell on score. However, I still hope for the best and that this may prove the penultimate echo from the

LOBBY.

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[December 16, 1846]

MADISON, December 10, 1846

J. C. BUNNER ESQ.: AS I foretold the convention on Friday morning reconsidered the vote in favor of single districts and finally left the whole subject to the action of the legislature, which will undoubtedly adopt the system if practicable and when practicable.

The question of boundaries then came up, and the omitted parts of the description in the act of Congress were after some resistance inserted. Finally, also, the second section was stricken out, as now needless and unmeaning. After several ineffectual attempts Mr. Holcombe of St. Croix also carried a proviso submitting to Congress

an alteration of the northwest line, so as to exclude the entire St. Croix settlement, which the present boundary by the river divides. There is some dissatisfaction at this, which I deem wholly mistaken, as Congress will never alter the fixed and certain boundary of a navigable river. In this shape the article has passed.

The next article up was one reported by Mr. Steele from that queer source of odds and ends, the miscellaneous committee, and a miscellaneous business it drove. This article contained two sections: the one putting married women substantially on the footing of the civil law, the other making an exemption from judgment of one hundred and sixty acres and all manner of other property so that no judgment could nine times out of ten be collected of any but a merchant.

The discussion of these provisions lasted all Friday and Saturday. The first provision was opposed by Strong and Ryan of your county, Parks of Waukesha, Brace of Crawford, and others, and defended by Smith of Iowa, Drake of Columbia, and the great Judd of Dodge, the champion par excellence of the rights of married women. In the course of the debate the state of society generally and the position of women particularly, in countries where the civil law prevails, as France, Spain, Italy, etc., was compared with countries where the common law prevails, England, Ireland, United States. Still the convention adopted the provision in a modified form.

A long discussion ensued on the second provision, and a great variety of amendments [were] offered and rejected. Finally, a very loose and indefinite proposition offered by Mr. Noggle of Rock was adopted. It exempts forty acres of land or a village lot of \$1,000 value from forced sale on executions issued on judgment founded on contract.

A great deal of debate ensued on this subject. The adoption of the provision was advocated by Messrs. Noggle, Smith of Iowa, Hunkins, Judd, and others, and opposed by Messrs. Strong and Ryan of your county, and others.

On Monday morning a number of the articles I have mentioned before came up for their third reading, amongst others, that on exemptions and married women being up on its final passage. Mr. Strong of your county made a very able speech against it. The article was passed by a very large vote. I deeply regret to say that Mr. Strong thereupon resigned his seat in the convention and has since returned home. As he will doubtless explain the motives of his course to his constituents, I will not attempt here to forestall



him; but I will only say that his resignation is deeply lamented by all with whom he has been in the habit of acting, and that his presence in the hall is greatly missed by all. His whole course in the convention was marked by great ability; he was ever a ready, fluent, and practical debater; very courteous in his bearing to all, and frequently, when assailed, giving proofs by his calmness and self-possession of eminent fitness as well in temper as in ability for his position. His circumstances would undoubtedly have rendered the presidency of the convention a more desirable position to him; his occasional presence in the chair fully warranted his claims upon it; and neither I nor many others here have now any doubt that had the usages of the party been observed and a caucus nomination made that nomination would have fallen upon him. The result was a far greater loss to the public than to him. Without any injustice to the present presiding officer, I feel well warranted in saying that, if Mr. Strong had been chosen the president, the convention would have adjourned weeks ago with a better constitution than they have now adopted.

The next subject was the schedule for the organization of state government. Several amendments were made. The chief was a provision offered by Dr. Huebschmann of Milwaukee, dispensing with the oath of allegiance from all foreigners being here six months before the ratification of the constitution. This was advocated by the mover, Beall, Judd, Hunkins, Hyer of Dane, and others, and opposed by Bevans, Harkin, and Ryan, who spoke at length in advocating the principle that allegiance and franchise should go together, and that the foreign population were too steadfast in their allegiance of heart to shrink from the little trouble of sealing allegiance of law. Pending this question the house adjourned.

On Tuesday the house by a decided vote sustained Dr. Huebschmann's amendment. Then came up the division of the Congressional districts which lasted the balance of the day. Various divisions fixing an eastern and western district were rejected. Finally at evening the subject was recommitted to a special committee. There was a great anxiety throughout to keep the districts as they were, on the part of almost all the delegates from the counties in the northern district as reported, while all the southern men were against it. The reported district could not however stand all the ridicule and animadversion to which it was exposed by Strong of Iowa, Lovell and Ryan of your county, and others.

On Wednesday morning the special committee on Congressional districts reported east and west districts. A motion was made to



take Winnebago from the eastern and add it to the western, which carried, and the report was finally adopted. Our district is now as follows: Brown, Fond du Lac, Sheboygan, Manitowoc, Calumet, Washington, Milwaukee, Waukesha, Racine, and Walworth. The article was then ordered to a third reading.

An article against dueling was then passed.

An article offered some days ago by Mr. Ryan, making the governor, lieutenant governor, members of the legislature, and judges ineligible during their entire terms of office to any other office under the state or to Congress and also making all defaulters ineligible to any office, was taken up. On motion of Mr. Magone the secretary of state, treasurer, and attorney-general were also included. This article was opposed by Dennis, Baker, and Judd, of course, who, not satisfied with being the champion of the ladies, also volunteered as the champion of the officeholders. Mr. Ryan defended his article, and it was finally ordered to a third reading by a large vote.

There being then no business before the convention, it adjourned before dinner to this morning, to give time to the committee on revision to fix up their work.

This morning after some bills had been read the third time the convention was taken aback by a resolution offered by Mr. Boyd of Walworth, logrolling together three propositions: First, striking out the sixth section of the bank article; second, a slight alteration of the rights of married women; third, fixing the forty-acre exemption at \$1,000 in value. These propositions were in the shape of instructions to the committee on revision, and as the Chair decided, Moses M. Strong being therein, required a two-thirds' vote to carry them. Mr. Ryan called for a division, and the first question being on striking out the sixth section, Mr. Beall, Mr. Hyer of Dane, Mr. Noggle, Mr. Barber of Dodge, Mr. Dunning, and others gave admirable reasons for crawfishing. The vote being taken by yeas and nays stood 44 ayes, 55 noes, the vote verifying in substantial my calculations of some weeks ago. Every gentleman who spoke advocated the sixth section in itself, but [all] were afraid it was against the opinion of their people. Strange enough, the convention has had one petition and one set of resolutions in favor [of] and not one of any kind against the provision, after it remained fifty days a part of the constitution. I notice that the *Advocate* suggests a modification of it. That would have been impossible; the issue has been the whole or none.

This over, the second proposition was rejected, and the third adopted. As to the second, the alteration was little more than nominal; and I feel very certain that our people will never consent to put the fair sex in fact on the footing of the civil law; and the whole will prove a dead letter. As a delegate from your county told them, they had much better do their legitimate business here and go home to attend to the rights of married women. As to the exemption, I admit that an exemption of realty is a startling idea, and the unlimited shape in which it first stood was very bad; it is now greatly improved, though still bad in itself. I am more disposed to fear the moral effect of it on the character of our state than anything else. As to its effect, it is a mere exemption from sale, leaving the exempted law precisely as the common law left it, under which real property could not be sold on execution, but the income might be applied to pay the judgment. It was hurried up and I cannot tell whether this form was intentionally given to it by its mover or not; it is at all events a very clumsy affair, to which I do not attribute as much consequence, bad as the principle is, as many do.

An article giving the legislature power over all corporations, offered by some gentleman—I forgot who—came up in the afternoon and was killed off by an amendment tacked on by Dennis about state printing. It was lost by a tie vote of 47 to 47. I greatly regret that the convention would do nothing to correct the infinite evils of the corporation system.

This ends all the substantial work of the constitution. The committee on revision and adjustment will report in the morning. There is a great variety of resolutions aiming at the bank article postponed until after the report comes in; but [it] is now generally believed that today's work puts the quietus on all these. If this prove so, the convention will pass the constitution tomorrow. By the way, it would not be very impossible, if the first vote on the final passage should be "no"; still it will pass substantially as it now stands. It will be in some of the most important things very admirable in its provisions; in others, very weak; in some few, affirmatively bad. Still I doubt if a second trial would produce a better.

There was a Democratic caucus here a few evenings ago to produce some union of feeling amongst the members. It has adjourned till after the constitution shall be adopted. I think it will go far to produce good feeling amongst all the real Democrats, and I think there will be a nearly unanimous agreement amongst them to sup-

port the constitution with all its faults. The general judgment here is that it will be adopted by a large majority.

When the convention adjourns, I will close up the reports of the

LOBBY.

P. S.—Mr. Tenney, late of the Galena *Jeffersonian*, has bought out Mr. Niles' [Mills'] interest in the *Argus* and is now here, the "regular" editor. A most excellent arrangement for the party as is well warranted by Mr. Tenney's great ability as an editor and his tried and steadfast character as a Democrat. Success to his efforts in the cause.

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[December 30, 1846]

MADISON, December 16, 1846

J. C. BUNNER ESQ.: Othello's occupation is gone; the convention has just adjourned. But before I resign my duties as your correspondent, I must bring to a close my report of the doings of the great body now no more. It will be a light duty, for the business of the convention was substantially completed at the date of my last letter.

On Friday, the eleventh instant, the committee of revision reported eight articles as ready for enrollment. They were read, sundry verbal corrections made, and they were then committed to the enrolling clerk.

A motion made some time since by Mr. Vineyard to consider the resolution for the separate submission of negro suffrage was then taken up on motion of Mr. Strong of Iowa, who addressed the convention in support of the reconsideration. He was followed on the other side by Messrs. Manahan and Parks, when the question was taken, ayes 25, noes 63, and another subject of some excitement was put to rest forever.

Some resolutions offered some time since by General Smith, providing for the printing of the journal and constitution, and other matters pertaining to the winding up were then taken up.

General Smith moved an amendment that the printing should be done by the printer to the convention. Dr. Huebschmann moved an amendment giving the printing of the journal to Moritz Schoeffler, the publisher of the Milwaukee *Banner*. Upon this there was considerable discussion, in which Messrs. Strong and Smith of Iowa, Bennett and Ryan of your county, Noggle, and others took part. The question being taken, there were ayes 13, noes 63. Mr. Ryan



then offered an amendment striking out the printer of the convention, so as to let the printing to the lowest bidder—lost, ayes 12, noes 63. Mr. Smith of Rock then offered the name of Geo. W. Crabb of the Janesville *Democrat*—lost, ayes 12, noes 63. The reason of this result was a very general impression that the election of Mr. Brown as printer was an implied promise to him of this work; I think this was a mistake, but it sufficed to produce the result.

The convention then adjourned to Saturday.

On Saturday morning the committee on revision reported for enrollment the remainder of the constitution, which was read. Various verbal amendments were made; the only one of any consequence which I remember was one on motion of Mr. Ryan, confining exemptions to lands and lots owned and occupied by residents.

General Smith's resolutions were then taken up and disposed of. They provide for the printing of twenty thousand copies of the constitution in English, five thousand in Norwegian, and five hundred copies of the journal.

Various expenses were provided for, and the convention adjourned to Monday.

On Monday morning, a resolution for the compensation of the clerks being under consideration, a call of the house was ordered to ascertain the number of members present, many having left since Saturday. Eighty-two, I think, was the number found remaining. Mr. Chase of Milwaukee then offered an amendment to the pending resolution, giving to members one dollar per day extra pay for the time they are paid in scrip. On this there was considerable debate in which Hyatt Smith, Ryan, and others opposed the extra compensation as improper and unjust, and it was lost by a decisive vote. Mr. Chase then offered another amendment providing for half a dollar per day extra compensation; this was opposed as before, but carried by one majority in a very thin house. The excuse for this was very strong, inasmuch as the members were compelled to sell their scrip at fifteen or twenty per cent discount to get home; but still it was a great error in such a body to sacrifice their dignity to their convenience. I am sorry for it.

The convention then definitively agreed on this day at eight o'clock A. M. for their adjournment, last evening being as early a period as the constitution could be ready for signature.

On Tuesday the convention merely met pro forma and adjourned.

This day a resolution of thanks to Mr. President being passed unanimously, he made a very proper acknowledgment of the cour-



tesy of the resolution and pronounced the convention adjourned without day.

In the meantime some things worthy of note have transpired.

At a caucus of the Democratic members held on the fifth instant, after a considerable discussion on the propriety of making some harmonious declaration before the final separation of the members, a committee of fifteen was appointed to draft resolutions.

This committee by Moses M. Strong, their chairman, reported to an adjourned caucus Saturday afternoon a series of resolutions which were adopted by the caucus without a dissent.<sup>4</sup> There were present, I believe, 72 members; of these, 67 signed the resolutions. Three declined doing so on the ground of objections to the provision in relation to the rights of married women, as I understood; one, on the score of boundaries; and one on the score of the separate submission of negro suffrage. I send you the resolutions which will speak for themselves. In the meantime it will not be improper to observe that so harmonious a termination is a great credit to the members and a great good for their Democratic constituents. The whole proceedings of the caucus were conducted in a universal spirit of goodwill and compromise, and were very refreshing after all the angry contests of the session. After all, without assuming to forestall their own declarations on the subject, I may be permitted to remark that, with such an overwhelming majority, composed of such various materials, a less discordant scene could hardly have been anticipated. In view of harmony, at least, the closing scenes were redeeming ones.

Of the constitution itself I will not here speak; one remark I will however make—that the committee of revision seem to me to have been grossly careless of their work.<sup>5</sup> In a very few instances have they corrected the language, so often awkward and incorrect as it must be, with amendment piled upon amendment; in still fewer instances have they made the transpositions necessary to the good order of the provisions; and they have left several provisions either slightly inconsistent or mere repetitions, which mar the harmony of the whole instrument. In a mere literary view the constitution certainly has many defects, but that after all is of little consequence, and I trust that these offenses against taste may prove the greatest evils of the work.

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<sup>4</sup> A report of this Democratic caucus and its appeal to the voters was ordered to be printed in every Democratic newspaper in the territory. For it see p. 204.

<sup>5</sup> For this constitution see *Wisconsin Historical Collections*, XXVII, Appendix II.

In the accounts I have given you of the doings of this great body I have endeavored to be impartial and true in all things. Errors I may have fallen into, but I believe no material ones. The convention has now adjourned, dust to dust and ashes to ashes; its great men, now scattered and scattering throughout the territory, are no more than so many units of the people, greater than all. Peace be with them; there were amongst them very many clever fellows and withal some able ones; and if ever they should congregate again, may I be there to see. The places which have known them so long know them no more; their messes are barren; their seats are empty; their hall is deserted. There has come a stillness and a sense of departure over all things. Where lately resounded so many footfalls and swelled so many voices silence and loneliness are about me, and I hear but my own solitary breathings and the last scrawls of my weary pen amongst the deserted seats of the

LOBBY.

LETTERS TO THE MILWAUKEE *SENTINEL* AND  
*GAZETTE*

[October 8, 1846]

MADISON, October 5, 1846

Nearly all the delegates, accompanied by the usual hungry swarm of office seekers, have arrived, and our generally quiet village presents a varied scene. All day yesterday a very active caucusing was going on in every direction indoors and out and will be renewed today with increased feeling and animation. The prominent candidates of the majority for president of the convention seem to be Mr. Upham of your city, Marshall M. Strong of Racine, Moses M. Strong and Moses Meeker of Iowa, and perhaps others have been or will yet be named. For the subordinate offices the zeal of the applicants seems in no wise diminished by the insignificance or pecuniary worthlessness of the places at which they are aiming (\$2 a day for a month or so). The convention will probably organize temporarily this morning and adjourn till tomorrow for the election of its officers, prior to which a caucus may be called to settle conflicting claims and "keep peace in the family." It is said that the seat of Mr. Burchard of Waukesha will be contested by Mr. Bovee, one of the defeated candidates on the Locofoco ticket. The claim of Mr. Bovee rests on an alleged false return of the votes of the town of Mukwonago. What will be the result of this movement time alone will show. Mr. Bovee has an up-hill job before him, but there is no telling what a Locofoco convention will do or rather won't do in the premises.

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[October 10, 1846]

MADISON, Tuesday evening, October 6, 1846

The convention, as you will see by its proceedings, is fully organized and fairly under way. Thus far a commendable promptness and dispatch in its preliminary action has been manifested. As a body it is respectable and intelligent in its appearance, and among its members are several public men of decided ability and parliamentary knowledge. A good selection of president, moreover, and an efficient clerk give it the power to perfect its business quickly and well; but whether in the sequel this power shall be exercised for the

welfare of the people or the benefit of the party time will determine. It is yet too early to form an opinion as to its probable course, unless an incident occurring this afternoon affords the means of judging of its character. The committee appointed to report rules for the government of the convention submitted one allowing eight members to call for the ayes and nays. Moses M. Strong, who failing in the presidency of the convention seems to be aiming for the leadership of his party, moved an amendment requiring one-fourth of all present to order them, and when reminded by Mr. Elmore of Waukesha County that the Whigs had but sixteen members in all in the convention, and but ten present, and the rights of a minority urged upon him, persisted in his motion and even declared himself strengthened in his purpose, doubting whether so small a minority should be allowed to "embarrass" the majority by such calls. This amendment was defeated, but a motion to substitute fifteen for eight was carried. The right of calling for the yeas and nays and placing not only themselves but their opponents on record has always been conceded to the minority. In the House of Assembly in New York, with one hundred and twenty-eight members, ten can at any time demand them; and the refusal of this right now to the Whigs (or what amounts to the same thing—fixing it at only one less than their whole number) appears to evince a disposition hardly compatible with generosity or fair dealing.

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[October 15, 1846]

MADISON, October 10, 1846

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These reports [on banks and banking and on suffrage and the elective franchise] indicate very matured views in the committees making them or a cut and dried state of things not unusual in legislative assemblies. Neither of the articles, however, on banks or elective franchise will be adopted without serious opposition and efforts at material amendments. There exists among the Democratic party a wide difference of sentiment and feeling on more subjects than one. The election of printer was the first demonstration of hostility between the two factions. Daily caucuses have been held (one upon Mr. Strong's resolution for a new election of printer, and another upon Mr. Ryan's bank report) but thus far have resulted only in the development of conflicting views and creating an exasperated state of feeling. But little is needed to fan the embers



into a flame, and small as is the number of the Whigs in the convention, they may, perhaps, save the state from the curse of much of the ultraism which there is a disposition to fasten upon us.

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[October 17, 1846]

MADISON, October 13, 1846

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This matter of banks is a sore trouble to our Locofoco friends. With a proposed unity of object, viz., the exclusion of all bank paper from circulation, there is among them great variance as to the means; and an ill temper and enmity towards each other has been manifested, indicating, as is alleged, in reality, a difference of principle, or what is as likely, a conflict of interests in a keen pursuit after the "spoils." The discussion yesterday was opened by a vigorous attack by Gen. W. R. Smith upon Messrs. Strong of Iowa and Ryan, and a spirited defense by the assailed. General Smith charged the authorship of certain bank articles, published some time since, upon the antibank chairman of the bank committee, and the chairman replied by branding it as "tótally untrue" and adding that when he found a stream running he considered the fountainhead to be where he first discovered the water; and that as to the charge in question he found it first with the gentleman from Iowa (General S.) and he left it with that gentleman to trace it farther or not as he pleased. And so has it been throughout. "Softs," "deserters of principle," "bank delegation from Milwaukee in the legislature" and (by analogy of reasoning in the convention) "would-be leaders, not wanted as drivers or guides," have been terms freely used. It's a pity the people don't take these men at their own words and dismiss them all from their confidence and the places they so unworthily (by their own showing) fill.

The objection urged by the opponents of the report of Mr. Ryan is that the incorporation of such penalties in a constitution is unusual and improper. "Leave those," say they, "to the legislature." "No," say the friends of the report, "we can't trust future legislatures, and if you are antibank men, as you profess, why do you object to securing ourselves now when we have the power?" Thus they stand and from these two positions carry on the war. \* \* \*

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[October 20, 1846]

MADISON, October 15, 1846

The discussion of the bank question was closed in committee of the whole this afternoon by the adoption of an amendment offered

by Mr. Baker, nearly identical with the provisions of the report of Mr. Ryan, but leaving out the specific penalties of that report and substituting an imperative requisition upon the legislature to enact at its first session after the adoption of the constitution "severe penalties" for any violation of the articles. Mr. Hicks' amendment was lost without a count. In the course of the discussion there has been but one frank, open avowal of favor for a banking system, and that was from Mr. Burchard of Waukesha. Even Mr. Gibson, the author of the minority report, coupled it with an expression of hostility to the establishment of any bank at the present time. Perhaps, as is charged, those who oppose the incorporation into the constitution of the penalties proposed by Mr. Ryan entertained a secret design ultimately to thwart the objects desired to be accomplished by these penalties; but their speeches have been filled with the most bitter denunciations of banking in all shapes, and evinced an ultraism and radicalism that would befit the hardest "hard" among their accusers. The published reports of the debates in the papers here will give you the views of these modern reformers, and if you deem them, connected with the personal altercations which accompanied them, worthy of going before your readers, you will have an opportunity to republish them with such comments as you please. Their acts are all I will trouble you with; but before leaving them I wish to say a word as to the remarks of Mr. Burchard.

The charge had been made that the Whig was the bank party, while the Democratic was the antibank party. Mr. Burchard made the usual answer to this, viz., a reference to the recorded opinion of the Democratic leaders and the fact that a great share of the banking capital of the Union was created by Democratic legislatures and distributed to Democratic partisans. After a recital of these facts which should make even impudence itself silent, he came to the "telling" truth that every bank charter ever granted in this territory was signed and approved by Governor Dodge! He then asked, Which is the bank party? And if banking has been heretofore a Democratic measure, where did this new light come from, and when did it spring up? Mr. Moore, a colleague of Mr. Burchard, followed him in his debate, but prudently "declined going into a discussion of the origin of banks."

As has been stated Mr. Baker's amendment was adopted in committee of the whole by a vote of 51 to 22. When reported to the convention various efforts were made to amend it. The first attempt was on a motion of Mr. Ryan to strike out all after the third

section and insert the fourth, fifth, sixth, and seventh sections in his report, the penalty in the fifth section for passing bank paper being changed to forfeiting five times the amount passed, and a clause added prohibiting the establishment of any agency of a foreign bank or issuing their paper here, under penalty of \$5,000 and two years' imprisonment. This failed—ayes 34, noes 72—and the vote probably indicates the strength of the self-styled exclusive “hards” in the convention. Moses M. Strong then moved an amendment similar to Mr. Ryan's; lost—34 ayes to 72 noes. Mr. Noggle next tried it. He moved to strike from Mr. Baker's amendment “severe penalties” and insert “fine and imprisonment in the state prison.” Lost—40 ayes to 63 noes. Mr. Ryan now offered another amendment prohibiting the circulation of foreign bank paper of a less denomination than \$10 after the year 1847, and less than \$50 after the year 1849. This was adopted—ayes 56, noes 49. Most of the eastern members voted against it. Mr. Beall of Marquette County then offered as a substitute for the whole matter before the convention an article prohibiting the chartering of any bank, but allowing the legislature to pass a general, free banking law, to be submitted to the people after having been published in six newspapers for thirteen weeks before the election at which it shall be voted upon. So stood affairs at the adjournment. Nothing is yet finally adopted, but the probability is the success of Mr. Baker's amendment with the prohibition against the circulation of notes under \$50. What will your commercial and business men say to this?

Something of a Congressional scene attended the adjournment. Moses M. Strong was on the floor urging a point of order when the President put a motion to adjourn. This fired Mr. Strong, and he told the President in very plain words that he had rights, “and you (the President) sha'nt deprive me of them.” He declared the decision of the President, that he (Mr. S.) was not entitled to the floor, the most tyrannical decision he ever knew; that he was willing to submit to whatever was decent or reasonable; and finally compelled the President to withdraw the motion to adjourn, and followed it with an angry appeal from the decision of the President that he was not entitled to the floor, which decision the President also withdrew. \* \* \*



[October 22, 1846]

MADISON, October 17, 1846

When I wrote Thursday evening Mr. Baker's amendment (with the "small bill" prohibition added) to the report of the bank committee had been adopted in committee of the whole, and Mr. Beall, after being ruled out in the committee, has succeeded in getting his proposition before the convention. After the morning hour on Friday, allotted to resolutions, etc., had passed, the consideration of the report was resumed, and the day spent in discussing and ineffectual attempts to amend it. Mr. Beall was voted down, and a proposition by Mr. Tweedy, embodying the general banking law of New York, to be submitted to the action of the people, shared the same fate, twenty-one only voting in favor \* \* \* and seventy-nine Democrats recording their votes against it. The previous question was at length applied, and the report of the committee of the whole adopted by a vote of 77 to 27, and the article then sent to the bank committee to revise and perfect.

The vote upon Mr. Tweedy's proposition shows the position of the Whig party upon this question. Every Whig present, except Mr. Hicks, voted for it. Thus, whatever may be their individual opinions or wishes in the matter, they are willing to give to the people themselves the control of it. And had not every day's experience shown the hypocrisy of their professions, it would seem passing strange that the loud-mouthed professors of Democracy should object to and refuse so reasonable a proposition. If, as they assert, a large majority of the people are opposed to all banking whatever, where can be the harm in allowing them to say so, unembarrassed by the issues, and aside from the powerful influences which will impel them to adopt the constitution, although it may fail to reflect their wishes in this particular? There can be but one reason for this, and some of them in effect admit it. They, with all their professions to the contrary, distrust the people, and having the power now seek to fasten upon the state a doubtful (to say the least) policy, beyond, under ordinary circumstance, their ability to change it. This is a step in "progressive" Democracy which, however characteristic of that undefinable faith, little accords with true republicanism or the established usages of a representative government. How favorably the course of the Whigs contrasts with such conduct!

Observe an indication of the spirit with which this subject has been treated. Look at the proposition of John Y. Smith to outlaw all bank paper and declare any payment of a debt or any purchase made with it void! \* \* \*



[October 24, 1846]

MADISON, Tuesday evening, October 20, 1846

You will receive in the *Argus* of this morning the doings of the convention on Monday, and will notice a little "letting up" from the "hard" hands of our constitution-makers. What "softening" influence has produced this I do not know, but if delay has been the chief cause it explains Mr. Strong's anxiety to take the vote Saturday and will lead to a desire that it might be postponed till the last day of the session and that day demanded by the interests and welfare of the state. (By the way, Mr. Ryan's prohibition of the circulation of bank notes in the first instance proposed \$100 after the year 1850.)

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In the course of the afternoon, on an amendment offered by Mr. Ryan, requiring the filing of a declaration to become a citizen, notwithstanding the laws of Congress might dispense with it, the question of the rights of foreigners resident in the territory at the time of the adoption of the constitution and admission of the state into the Union was raised by John Y. Smith, who contended that all persons then residents became by such admission invested with the full rights of citizenship and therefore no declaration was necessary by any foreigner at that time resident here. In this he was supported by Moses M. Strong and Mr. Huebschmann and opposed by Messrs. Burnett and Ryan. This opens a broad field for argument and will attract attention.

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[October 27, 1846]

MADISON, Thursday evening, October 22, 1846

After being for three days tossed about in committee of the whole the article on suffrage and elective franchise was taken therefrom this afternoon and reported to the convention. It is essentially as reported by the majority of suffrage, etc., amended by striking out the viva voce vote requiring from foreigners a declaration of intention to become citizens and an oath of allegiance to the state notwithstanding Congress may dispense with the requisition (this decides against the doctrines of J. Y. Smith and others alluded to in my last), and establishing a year's residence in the state by foreigners before exercising the right of suffrage. A motion in committee of the whole to strike out the white qualification in the first section was lost, only thirteen rising in its favor; and subsequently in the convention a motion to submit the question to the people in a

separate proposition was defeated by a vote of 51 to 47! So it seems the "equal rights" of Democracy belong to the whites, half-breeds, and Indians, while those of little darker shade have no "part or lot in the matter," and they are moreover to be confined there even though those now enjoying them may be willing to extend them. Mr. Tweedy, Mr. Burchard, and Mr. Randall of Waukesha have each made able and strong speeches against this exclusion of a proscribed class and in favor of a practical application of those principles of Democracy which its loud-mouthed devotees so noisily profess, but utterly disregard. The action of the majority, however, on this question has been in perfect keeping with their refusal to submit to the people the bank issue. But can there be more glaring and shameless violations of right and justice than these repeated refusals to refer to those to be affected by their operation the questions so important to them, and on which there is confessedly a difference of opinions and wishes? It may perhaps be more difficult to determine what will be the decision of the people upon a constitution framed in the spirit and characterized by the provisions which thus far mark the one now in the process of formation here, but there can be no doubt as to what should be its fate.

On the question of submitting this question every Whig except Messrs. Burchard and Baird voted in its favor, and Mr. Burchard voted against, in order to move a reconsideration tomorrow morning. The result you will know in due time.

In connection with this matter I am sorry to record a most unworthy act of Marshall M. Strong. Mr. Strong has heretofore occupied a position that ought to deter him from such things. Immediately upon reporting the article to the convention, knowing Mr. Burchard intended to propose his substitute where he could get the yeas and nays upon it, Mr. Strong moved the previous question; but so illiberal was the effort, his own friends deserted him and the motion failed. Mr. Burchard then got the floor and was proceeding with an argument in favor of his substitute, when Mr. Strong called him to order. The President decided in favor of Mr. Burchard when Mr. Strong took an appeal from the decision, but experienced another mortification by another failure. The convention sustained the decision. \* \* \*

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[November 3, 1846]

MADISON, Thursday, October 29, 1846

Most of the time for the last two days has been occupied in committee of the whole with the article in relation to taxation, finance,

and public debt. Several amendments have been adopted, and the article this afternoon was reported to the convention. Among the amendments is one striking parsonage houses from the exempted property liable to taxation, and an unsuccessful attempt was made to tax churches, church lots, and burying grounds. State lands in certain cases may be taxed if the legislature direct. The most important amendment, however, was the striking out of the following section:

“Third. Except the debts specified in the second section of this article, no debt or liability shall be contracted by or on behalf of this state unless such debt shall be authorized by law for some single work or object to be distinctly specified therein. Nor shall such law take effect until it shall at a general election have been submitted to the qualified electors of this state for their approval or disapproval and shall have received in its favor a majority of all the votes cast at such election upon that subject.”

No such law shall be submitted to be voted upon within less than three months from its passage nor when any other law or any amendment to the constitution shall be submitted to be voted for or against.

This puts an effectual stop on internal improvements by the state. It is well, perhaps, to be consistent, and our constitution-makers seem determined to preserve their character in this respect if they fail in more important characteristics.

As a sort of tender the article on internal improvements has been tacked on to its more stately neighbor, and the shape in which it has been left is even more concise and explicit than when it came from the hands of its venerable author. All after the first sentence has been stricken out, so that it now reads, “Internal improvements shall forever be encouraged by this state.” But in what way this is to be done the people will doubtless like to be informed.

A fierce personal collision occurred yesterday between Mr. Judd and Mr. Ryan. This would hardly be worth noticing further than as it indicates that the animosities and jealousies of the commencement of the session yet live and need but an exciting cause to revive the bickerings which marked the opening scenes of the convention.

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[November 5, 1846]

MADISON, Saturday, October 31, 1846

This afternoon, for which a session was specially held, the convention was edified with a characteristic speech from the "tame Davy Crockett" (General Crawford must not take offense; the title comes from his friend from Racine) on his pet motion to abolish all laws for the collection of small debts, the article reported by him on that subject being under consideration. Another Saturday afternoon session was ordered for its further consideration a week hence. The convention seem to regard this as extra work.

Thus closes the business of the fourth week of the convention, and what has been accomplished? Three articles (banking, suffrage, and militia) have been passed; another (taxation) has occupied four days and is now where it is as liable to amendment and delay as before; one stands ordered engrossed for a third reading; two others have been incidentally dragged along in the progress of a general wrangle; and two more have been pushed ahead to avoid a present "evil day" and are still exposed to the detentions to which the settlement of disputed points may subject them. Thirteen articles—involving the complicated questions of judicial, executive, and legislative systems, general and local; the powers and restrictions of corporations; the interest of education; the rights, privileges, and duties of citizens; and other important questions—remain untouched; and several select committees have matters of interest in charge or have their reports before the convention. Meanwhile, sectional jealousies and personal enmities have broken out in open feuds; legislation has been clogged by rivalries of "leaders"; propositions have been sustained or voted down from preference for or hatred of men; every absurdity has found its advocates, and ultraism reigned supreme; and the result of all, so far as finished, is the adoption of provisions which neither please themselves nor will satisfy the people. What has been gained by the assembling of this convention?

From this view the Whigs here turn with pleasure to the glad tidings from the East and take courage.<sup>6</sup> There is a spirit of retribution abroad in the land, and Wisconsin is not so far removed from its influence or deficient in its existence but that it can be aroused even in this "backwoods" country, and the men who now sit in power here be made to feel its effects in the rejection of the

<sup>6</sup> The allusion is to the news of Democratic defeat in the Congressional elections of 1846.



constitution they are forming. Complaints are constantly coming in from the people, and unless there is a change not only in the future course but past acts in the convention (and more unlikely things have happened) Wisconsin will be classed with New Hampshire, Maine, and Pennsylvania.

For some days past we have had at a distance those peculiar western scenes, the burning prairies. Almost nightly the sky has been lit up in various directions with the lurid glare which betokens an extensive conflagration, and within a day or two it has reached our immediate vicinity, and portions of the shores of our lakes have been at times girt with a flaming brand of fire.

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[November 7, 1846]

MADISON, Tuesday, November 3, 1846

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Today, the convention "broke loose" and set all restraint at defiance. An attempt to detail its vagaries (or more properly the vagaries of some of its members) would lead into a labyrinth which I shall not attempt to thread. Immediately after the reading of the journal a communication was received from the territorial treasurer stating that he had \$15,000 at the disposal of the convention. Certificates for mileage were then distributed, and a rush was at once made for the treasurer, who was in an adjoining room. In the midst of this desertion of seats the resolution to pay the per diem of members so far as due was taken up, and thereupon followed, at different intervals, three or four calls of the house, motions for a recess of an hour, for an adjournment to two o'clock, yeas and nays on various questions, a suspension of the rules to allow the further consideration of the resolution after the expiration of the morning hour, and, finally, at half past ten o'clock an adjournment to 2 P. M. During this confusion an amendment to pay the members who were absent on leave was lost, and General W. R. Smith of Iowa sent up a proposition to increase the pay of members to \$3 per day (in defiance of the law of the legislature) on which Moses M. Strong moved the previous question, which was sustained, and pending the vote on ordering the main question the adjournment took place.

In the afternoon the first proceeding was to refuse to put the main question by the casting vote of the President and the pending proposition (increasing the pay of members) over to tomorrow morning.

Money matters being the conceded order of the day, and it being generally admitted that nothing else could be done till all the

newly received funds were disposed of, Mr. Dennis had a resolution ready to pay each member \$50 on this fee diem, to the clerks \$75, other officers \$50, and \$400 to the printer. Moses M. Strong moved to add \$50 to the chaplains, which was adopted, and \$500 was ordered paid to A. A. Bird for work done in preparing the hall.

The resolution fixing the amount of pay to the officers was then taken up and amended by making the clerk's \$4 a day, assistant clerks' \$3, and other officers' \$2, including chaplains. The President's was not changed.

This disposed of, the vote putting off till tomorrow the proposition to increase the pay of the members was reconsidered, when General Smith withdrew it, against many remonstrances, with an avowal that he should submit it at some proper time. \* \* \*

An instance or two as a specimen of the whole may throw a little light upon this point. On the question to allow the chaplains \$2 a day, Moses M. Strong thought it should be given to each chaplain every day, for the duties of those officers were very arduous. Mr. Berry, in an angry reproof of the indecencies which had characterized the doings of the afternoon, thought the pay should be as proposed, for it was worth that to take charge of the spiritual interests of such a set of outlaws and outcasts as composed the convention. Again: A motion to suspend the rules was pending, and an amendment had been declared adopted by a majority vote, when Moses M. Strong (whom the President evidently bears [fears] on questions of honor [order] ) gravely asked the Chair if it did not take a two-thirds' vote to amend the motion as well as suspend the rules. The President in a hesitating, halting manner said he had decided the other way, but he might be wrong, and seemed about to reverse his decision. "Well, I think you was right," said Moses, and a universal laugh repaid the successful effort to fool the Chair.

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[November 10, 1846]

MADISON, Thursday evening, November 5, 1846

I have but a short story tonight. The convention opened yesterday morning with seventy-nine members present, the absentees being still hunting up the territorial treasurer, or "elsewhere." A resolution to pay the per diem of members as fast as accruing and whenever called for was laid on the table, as was Moses M. Strong's resolution to adjourn on the twenty-third instant, after a failure to amend it by inserting the thirtieth. On this question the ayes were

52, noes 27—a very large vote, and showing the indisposition to fix a day of adjournment, and the probability of a session into the middle of December. While discussing it, Mr. Strong asked how much money there was in the treasury and said, if informed, he could tell when an adjournment would be had. A majority, he asserted, would stay as long as they could get \$2 a day. This is a harsh judgment, but it comes from a leading member of the majority, who has as good chance to know his colleagues as anyone else, and more frankness in expressing his real opinions than most others. Mr. Strong gave notice of an intention to offer a similar resolution every day till he could get the time fixed for a final close of the session and accompanied it with one to adjourn on the twenty-fourth. \* \* \*

The remainder of the time, both yesterday and today, has been spent in committee of the whole in an inhuman outrage on the bill of rights. Only two sections escaped the knife. By some means, very well understood here (as the floor "lobbyman" of the *Racine Advocate* would say), the individual (Geo. B. Smith, a talkative lawyer of this place) who prides himself on being the youngest member in the convention was placed at the head of the committee entrusted with this important matter. Whether the merciless overhauling which his report has received is a rebuke to his inordinate vanity and self-assurance or whether it has been induced by actual defeats in matter or manner those who have officiated at the dissection best know. Probably both; but certain it is no mercy has been shown.

Among the amendments was one of interest to editors. The fourth section reads: "The liberty of the press is essential to the security of freedom; and it shall not therefore be restrained in this state." This was deemed by Mr. Tweedy, Marshall M. Strong, General Smith, and others, too loose, and would not allow prosecutions for libel. They contended that the press should be free, but responsible for abuse of its privileges; and the section in the constitution of Michigan was granted, guaranteeing the liberty of the press, but declaring it responsible for the abuse of its rights, and allowing in case of suits for libel the truth to be given in evidence.

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[November 12, 1846]

MADISON, Saturday evening, November 7, 1846

We have had a varied bill of fare since Thursday and perhaps it will be as well to uncover the dishes as they come. First we were



presented with a return from the clerk of the district court of the county of the Portage, in answer to the call of Judge Hyer. This return states that judgments have been rendered for \$469.38, and the costs of the court, in various shapes, amount to \$1,382.92! And the value of this information is fittingly estimated as \$25, for which a charge of that sum is made.

Mr. Baird's resolution to adjourn on the thirtieth of November came up, and notwithstanding the heavy vote of the day before, laying a similar resolution on the table, a motion to lay this there failed by 37 ayes to 48 noes, and after being amended by inserting the first of December was adopted under the previous question by 49 ayes to 39 noes. (Only two Whigs voted "no.") So the convention adjourns sine die on the first of December unless a reconsideration of the vote be had; and the character of its proceedings hitherto give [no] assurance that such will not be the case. The debate upon this question was spicy. In the course of it Dr. Judd said that five weeks had passed, and not half the business was finished, and he did not believe it possible to get through by the first of December. Moses M. Strong, in reply, thought there was time enough, and said the greater part of the business so far had been to make and unmake men, to make great men out of little ones and little ones out of great ones, and to create offices for favorites. He declared his willingness to vote for a prohibition of any member of the convention holding any office under the constitution for two years after its adoption. Horace Chase significantly remarked to Mr. Strong that it was an easier process to make great men out of little ones than bring down great ones.

Acting on the hint given by Mr. Strong, Mr. Magone made a motion to instruct the committee having the bill of rights in charge to report such a section. This called up a point of order, whether the motion was not in effect a resolution and should not go over till next day, which the President so decided, and Mr. Strong moved a suspension of the rules to consider it, but was voted down. Mr. Tweedy then drew up and offered a resolution embodying the instructions, and thus ended action for the time being.

The convention then went into committee of the whole on the preamble. Moses M. Strong moved to amend by striking out all after the words: "We, the people of Wisconsin," and inserting "do ordain and establish this constitution for the government of the state." Mr. Bevans wished to retain the acknowledgment of the



grace and beneficence of God in the preamble and offered an amendment to that effect. Mr. Strong thought it out of place in the constitution, and thought that its incorporation into laws, etc., savored too much of hypocrisy. Mr. Manahan said it was questionable whether the members of this convention had anything to do with the grace of God, but they represented constituents who had, and he thought the convention ought to legislate sometimes for them. The debate was proceeding in this strain when Mr. Dennis moved to rise and report, which was carried. Mr. Strong then renewed his motion to amend and called the previous question to cut off General Smith, who wished to speak, but finding he was hitting his own friends, he withdrew it, and General Smith then moved it himself. Moses had the floor, however, and went on with a speech. He complained bitterly of the manner in which the motion to rise and report was made and carried, when it was known there were amendments to be offered, and charged that the factious majority of the convention (Tadpole) were determined to put through without amendment whatever came from their own side, and repeated his charge as to making and unmaking men. (Quere: How often have his friends sustained a measure merely because he proposed it, and someone else opposed it?)

The debate then took a wide range in which the act of August last for the admission of the state into the Union was severely censured and even opprobriously stigmatized. A motion was made to strike out the clause referring to that act, in order to afford an expression of opinion—whether the convention was willing to accept its conditions—and the vote for striking out was 70 to 9! Thus amended, it was ordered to be engrossed for a third reading.

The article on municipal corporations was taken up in committee of the whole, when the whole article was stricken out, and provisions adopted allowing the government of such corporations by general and special laws, and restricting instead of prohibiting the power to contract debts. It was in this form reported to the convention, and a recess taken till two o'clock.

On assembling in the afternoon the article on the executive was considered in committee, and in fixing the compensation of the governor a choice bit of fun interspersed the entertainment, in fitting him out with an establishment, "bob-tailed horses," and the like. The salary of the governor was finally fixed at \$1,500 a year, his residence to be at the seat of government. Amendments were proposed naming every possible sum almost from \$400 to \$2,000.

J. Allen Barber moved to vest the pardoning power in the legislature, which was lost and the article at length reported to the convention without much alteration. The principal business today has been a grand game for "cutthroats." Mr. Tweedy's resolution to exclude members of the convention from office for two years was made the occasion of the commencement of the game, and bravely was it played out. The resolution was adopted, 47 to 44, and the defeated aspirants for judgeships and these places under the constitution, thinking that "what was sauce for the goose was sauce for the gander," turned on their opponents and against their lamentations and special pleadings excluded first, members of the convention from seats in Congress (that hit hard) and finally, every officer in the territory now holding, whether appointed or elected, (Governor Dodge and the supreme court judges caught it then) from any office whatever during the time so kindly administered to themselves. A motion to reconsider was laid on the table by 58 to 34. Of course there was a good deal of side play in all this in the shape of debate, motions to postpone, ayes and noes, and previous questions, but the count stood at the close as is stated. There is no calculating upon this most remarkable convention, nor telling its action; otherwise a guess might be made as to the fate of the prohibition when it comes from the select committees. The ill will existing between the factions may create a willingness in each to wound itself for the sake of injuring the other, if either pursue an exasperating course; or the strong pressure of party interests and personal ambition may overcome their hatred of each other and induce each to leave their enemies a slice rather than lose their own. But what a state of things does this exhibit! And how clearly are revealed the controlling influences at work in the convention!

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[November 17, 1846]

MADISON, Thursday evening, November 12, 1846

The first business on assembling this morning was a report from the select committee on the proposition to divide the state. The committee report in favor, and give as reasons: First, its shape (extremely long and narrow); second, the boundaries established by the act of Congress of August last for its admission; and third, the present unequal representation in the Senate of the United States.

<sup>7</sup> For an explanation of this statement see *post*, p. 84.

The report was referred to the committee of the whole on the boundaries of the state, and one thousand copies ordered printed.

\* \* \*

The article on agricultural leases was taken up and amended by including leases of mineral lands and limiting the time to twenty years instead of twelve, and then ordered engrossed under the previous question by 77 to 11. On this article a debate arose, in which Messrs. Tweedy and Marshall M. Strong were the principal speakers, Mr. Tweedy arguing in favor, and Mr. Strong against. I wish I could give you the remarks in full, but it is impossible for anyone except an experienced stenographer to do them justice. Neither of these gentlemen ever talk at random, and in conciseness and force of argument, as well as gentlemanly courtesy of debate, are models worthy of imitation. Few men in so small a minority as the Whigs in this convention carry the influence of Mr. Tweedy, and none deserve it more.

The consideration of the article on the legislature was resumed in committee of the whole, and an amendment proposed by Mr. Tweedy drew out a debate on the single district system, in which Messrs. Tweedy, Drake, Steele, A. H. Smith, Hunkins, G. B. Smith, and Marshall M. Strong participated. The remarks of Messrs. Tweedy and Drake were able and conclusive in favor of the system. They were, however, opposed by the other speakers by the narrowest views of party policy, and Mr. Harkin, with more simplicity and less cunning than his colleagues, avowed in so many words his opposition to be that it was, as he alleged, a Whig measure, and would allow the election of Whigs where they do not now succeed. Marshall M. Strong made a covert but specious attack on the system, notwithstanding he reported it, and in effect "crawfished" (as the term is) from his first position. After various propositions for amendment the section containing this provision was stricken out, which may be considered as settling its fate. Party interests have thus sacrificed another measure of the clearest right and propriety and added another wrong to those already perpetrated.

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[November 19, 1846]

MADISON, Saturday, November 14, 1846

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There is a frequent annoyance in the "mistakes of the printer" to which all bad writers are subject who are not privileged to read

their own proofs, from which I am not exempt, as I have previously intimated. Generally, it is as well to leave their correction to the reader or let the matter pass for what it is worth; but sometimes they are of such a character as to render proper their correction by the sufferer himself. I have one or two such to notice. In the letter dated November 3, the omission to insert two or three lines introductory to the paragraph repeating the sayings of two or three members on pay day leaves an impression that something was written that you were unwilling to publish. As near as I can now recollect the sentence omitted was: "The foregoing will give you an idea of the business transacted, but no idea of the manner of transacting it." And then followed, "An instance or two," etc., as printed. In the same paragraph the President is made to "bear" on Moses M. Strong "on questions of honor." No "question of honor" has ever arisen between these gentlemen that I am aware of, but the President does "fear" him (as I wanted to say) "on questions of order." The omission, too, of the reason given by Moses M. Strong why the duties of chaplains were arduous and worth \$2 a day for the days not actually officiating (that on those days they were settling with their consciences and their God for praying for the convention) renders the incident unmeaning and its recital useless.

In the letter of the next date, in noticing the resolution of the adjournment I am made to say that the character of the proceedings of the convention heretofore gives assurance that a reconsideration will not be had; whereas I said it gave no assurance and the presumption is that the resolution will be reconsidered. I am furthermore made to say that "a grand game for cutthroats" came off in the convention on a resolution of Mr. Tweedy (of which resolution, by the way, Mr. Magone is entitled to the paternity). Now, I by no means intend to stigmatize the majority members of the constitutional convention of Wisconsin as "cutthroats," for, independent of their politics, and aside from their acts in the convention, I know nothing against them, and presume they are all good citizens and honest men. I meant to characterize the proceedings on that occasion, as they were, "a game of cutthroat"—a game well understood at the East, if not here, and well defined by its name.

This sort of general explanation now will, I hope, answer for all past blunders and future errors.



[November 24, 1846]

MADISON, Thursday, November 19, 1846

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A resolution to hold evening sessions on Monday, Wednesday, and Friday, was adopted.

The consideration of the report of the select committee on the articles in relation to finance, internal improvements, and corporations was then resumed in committee of the whole where it was left Saturday, and a long debate ensued and various amendments proposed, among them one striking out the whole article relative to corporations, which was carried. Mr. Tweedy, who was one of the select committee reporting these articles, explained his position as to the section requiring charters for internal improvement to pass two successive legislatures. The proposition, he stated, was first to require two-thirds of each branch of one legislature. To this he objected. He was then asked if he preferred a majority of two successive legislatures, and he replied, "Yes." When thus fixed he was asked if he was now entirely satisfied, and he replied "No," but that it was better than the other, though he did not approve it as it then stood.

In the course of the debate a very animated and exciting discussion arose on the resolutions reported by the committee in reference to the Milwaukee and Rock River Canal, and the Fox and Wisconsin River grants. These resolutions were called out by a resolution of inquiry offered by Mr. Reed. The first resolution of the committee directed the legislature at its first session to refuse its assent to the act of Congress containing what is called the Milwaukee and Rock River Canal grant, and to refuse to assume the trusts created by that act. As an amendment Mr. Tweedy presented two additional resolutions on the same subject, carrying out the spirit of the resolution of the committee. The first requests Congress to cede the unsold canal lands and the avails of the land already sold to the state as part of the 500,000 acres coming to the state by the distribution act of 1841, and to bring the even-numbered sections into market at the minimum price of \$1.25 per acre, giving right of preëmption to the settlers. The second provides that in case Congress should give to the state the canal lands as requested they should be sold by the state at \$1.25 per acre, reserving preëmption rights to the settlers, and also remits to those who shall have bought any of those lands the excess price over and above \$1.25 per acre on their contracts.

These resolutions were opposed by Messrs. Magone and Huebschmann of your city, and by Warren Chase and Judge Barber, Mr. Magone moving to strike out the resolution reported by the committee and strenuously urging the policy of that course, preferring to leave the matter to the legislature and objecting to putting in the constitution any provision on the subject, as out of place there and calculated to disgust the people with it and defeat it in Congress. Dr. Huebschmann declared that he should have declined being a candidate for the convention if he had supposed he would have been required to vote upon the question without any acquaintance with it.

The resolutions were supported by Messrs. Tweedy, Marshall M. Strong, A. Hyatt Smith, Ryan, Reed, Graham, Parks, and Crawford, who contended that of all times this was the most proper for action upon and the constitution the most fit place for this subject. That an act of the constitution was the most solemn and binding act of the state, and they desired its sanction and restriction upon this matter. That unless the question was now settled the legislature might possibly assent or neglect to dissent to the canal grants until the lands were all sold, and perhaps misapplied, as they had been already, and the state involved in a heavy debt; and further, that it was due to the settlers on the canal reservation to act at once on this subject, in order to bring all the lands on the reserve (both even and odd numbered sections) into market at the reduced price of \$1.25 per acre, and to secure the settlers preëmption rights to their farms, as well as to those who have already purchased their farms, a perfect title at \$1.25 per acre.

The question being taken on Mr. Magone's motion to strike out the resolution reported by the committee, it was lost, only 16 voting in favor; and Mr. Tweedy's [resolutions] were then adopted.

The consideration of the second resolution of the committee, refusing the grant for the improvement of the Fox and Wisconsin rivers, consumed the remainder of the day and an evening session on a motion of Mr. Baird to strike it out. A peculiar feature of this debate was the participation in it of Mr. Doty, who opposed the motion, and it was his first speaking in the convention. This fact called out some caustic remarks from Mr. Baird, in looking for the cause of this departure from the ex-Governor's heretofore invariable rule, and the scene was evidently relished by the convention. Mr. Ryan ("the gentleman from Racine") could not, of course, let the speaking of "the smiling gentleman from Winnebago" pass unnoticed, and he styled him "the great Æneas of the North."

Mr. Baird's motion was carried, and the articles reported to the convention, when it adjourned. \* \* \*

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[November 26, 1846]

MADISON, Saturday, November 21, 1846

REFUSAL TO RECONSIDER THE BANK ARTICLE, BY A  
TIE VOTE

We have had two days of great excitement and turmoil, and the cause is indicated by the heading just written. The act was the work of an hour, but its influence has been felt in every subsequent transaction of the convention. To give something like a connected narration of events I will note them in the order in which they transpired.

The session yesterday commenced (after some unimportant matter) by a resolution introduced by Mr. Ryan, accepting the Fox and Wisconsin River grant with a proviso that no liability be incurred by the state beyond the proceeds of the sale of lands and pledging the state faithfully to apply all money so received.

Mr. Judd moved to reconsider the vote ordering the articles on finance, etc., to be engrossed, which was postponed till it should be in order.

The substitute of Mr. Hicks (erroneously attributed to Mr. Bevans) in the shape of a resolution of instruction to the committee on miscellaneous provisions was then taken up, and W. Chase moved to postpone it indefinitely. Mr. Hicks had leave to strike out the instructions, so as to bring the convention to a direct vote at once upon the question. Mr. Chase again moved to postpone indefinitely and said if there was to be any "crawfishing," he wanted it on the bank article itself, where the ayes and noes would show in contrast on the same question. Mr. Hicks called for the ayes and noes on the question of postponement, which were ordered. Mr. Baird moved a call of the house, but it was lost. The vote was taken, and the motion of Mr. Chase carried—ayes 76, noes 17.

Mr. Hicks then stated that he had delayed to call for his motion to reconsider at the request of several delegates (particularly the Waukesha members) till they could see or hear from their constituents, but he had had no communication from them since. He alluded to the several attempts to "steal his thunder," and concluded by calling for the consideration of his motion. Moses M.



Strong, remarking that there was an evident intention to go over the whole ground again, moved the previous question, which was carried, 56 rising in favor. The question on ordering the main question was then taken by ayes and noes and carried—ayes 60, noes 42. A call of the convention was ordered, and the absentees not excused being all brought in, the vote was taken on Mr. Hicks' motion, and a reconsideration refused—ayes 53, noes 52 as follows: [for the vote see *Wisconsin Historical Collections*, XXVII, Appendix I, roll call 130].

This vote the President declared, in answer to a question of Mr. Ryan, put a "clincher" on the bank article; and if he had added "on the constitution," he would have expressed the opinion of many members on the floor.

A good deal of excitement was now prevalent in the hall, and the article on the judiciary being announced next in order, Mr. Baker moved to postpone it till tomorrow, as the convention was not in a proper state to consider it. Opposition being made, the motion was varied to postpone till the afternoon session, to which Mr. Baker moved to adjourn, and on which the ayes and noes were called, and resulted ayes 40, noes 44, several members calling for an adjournment sine die, and Mr. Randall, in a loud tone, standing in a chair, giving notice of a meeting at six o'clock in the evening of all who were in favor of making a constitution "for the interests and welfare of the state."

In the afternoon Mr. Magone came in with a proposition (which he subsequently withdrew but which gave him an opportunity to express his feelings and views as to the result of the vote in the morning) to adjourn to the nineteenth of December, 1919. He said the articles already adopted would defeat the constitution, and there was no use in staying here longer. Nothing that could be done hereafter would make acceptable what had been done heretofore, unless materially changed. During a late visit home he had been unable to find there or on his way there a single man who would vote for the constitution, and the principal objection was the bank article.

The article on the judiciary was then considered in committee of the whole and consumed the rest of the day.

This morning Mr. Magone submitted a resolution to restrict speakers to fifteen minutes in committee of the whole, and to speak but once on the same subject. The rules being suspended for its consideration, W. Chase moved to amend so as to extend the restriction to the convention without unanimous consent or a sus-



pension of the rule. A variety of amendments was offered and a disorderly debate ensued. Mr. Judd called the rule a gag, and Mr. Chase retorted by saying that the convention had been gagged long enough by the talking members, and it was time to change and apply the gag to the other side. Mr. Kellogg at length moved to postpone indefinitely, which was carried—ayes, 60, noes 45. The morning hour had now expired, and General Crawford got the rule suspended to allow him to introduce a resolution exempting from execution five hundred dollars' worth of household property, books, mechanics' tools, etc., and Mr. Manahan also introduced one to exempt a homestead not to exceed two hundred acres.

The bill of rights was now taken up, and the previous scenes of disorder accompanied with a wanton waste of time and a disregard of the proprieties and dignity of legislative decorum were renewed and increased. I have prepared a somewhat minute detail of the proceedings, but the length to which this letter is already extended precludes its insertion and you can occupy your columns better than by its publication. The verbal amendments of the select committee were agreed to and two of the additional sections rejected. Mr. Mills moved to insert a provision protecting the Seventh-day Baptists in their religious rights and extending the same immunities to them on Saturday as are granted to them on Sunday. Lost, after debate, by 32 ayes to 52 noes.

The bank question was at this point unexpectedly again opened, Mr. Magone moving to add a new section allowing any person in the state to receive and circulate any bank bills or other money he chooses, not counterfeit or fraudulent. Mr. Parks moved a call of the convention. Mr. Manahan moved to adjourn, and the ayes and noes were ordered thereon. Lost—33 to 51. Mr. Mills moved to adjourn to two o'clock; carried. On assembling at that hour, Mr. Magone renewed his amendments, when Marshall M. Strong raised the point of order that the question had been decided and could not be again considered. Mr. Judd was at the time in the chair and decided the amendment in order. Mr. Strong appealed from the decision. Mr. Parks moved a call of the house, which was ordered and proceeded with in much confusion, the voting upon excusing absent members being noisy and regulated by the votes they would give if present. After completing the call, the appeal was argued at length, the President (from the floor) taking part in sustaining the decisions and receiving some rather hard hits from Mr. Ryan. The appeal was sustained by a greater part of the Whigs who

yesterday voted to reconsider the bank article, and would even vote for its repeal or modification if the question should be properly presented, but who were unwilling to violate the rule today and establish a dangerous precedent, to enable some half dozen of the majority who skulked on the vote yesterday to accomplish indirectly and improperly what they had not the manliness to do directly at the proper time. The appeal was sustained by a vote of 67 to 36.

Some other amendments were proposed and lost, among them one by Mr. Tweedy prohibiting any law impairing any "remedy" of a contract which may exist at the time the contract is made—ayes 38, noes 64. The article was finally ordered engrossed, and the convention adjourned.

Previous to adjourning, however, my friend George B. Smith took occasion to let fly an arrow at the "lobby scribblers," in a request for a correction as to the number of sections left undisturbed in his bill of rights. He claims seven instead of two, as heretofore stated, although disowning at the very [same] time any recognition of his "butchered" offspring. The unassuming chairman certainly needs all the credit he can get, and I am not disposed to rob him of what little he has. Therefore, be it known, that in a bill of twenty-five sections he succeeded in saving seven in some shape or other in part or in whole, although so altered he does not know them and even denies their equivocal paternity.

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[November 28, 1846]

MADISON, Tuesday evening, November 24, 1846

A preliminary movement was yesterday made to a new effort to open the bank question by Mr. Judd, who submitted a resolution to take from the committee on revision and adjustment the article as passed and give it to the committee of the whole, to be considered next Monday at ten o'clock to the exclusion of all other business. What is to be accomplished by this movement is not very obvious (although subsequent events may possibly throw light upon this point) as it will require a two-thirds' vote for its adoption, even if in order; and the vote on the reconsideration last Friday allowing all the skulking members now to come out and show their hands gives no hope of such a number in its favor. \* \* \*

The articles on finance, etc., were then taken up, with Mr. Judd's resolution for a reconsideration of its engrossment, and for an hour and a half the bill was bandied about from pillar to post on various

motions involving different points of order till at length Mr. Tweedy moved the previous question, which was ordered, and took the President from water where he was utterly out of soundings and was veering about at the will of every member who made a suggestion or raised an objection. Under this question the articles and the resolutions appended (including those relating to your canal lands) were passed—ayes 71, noes 24.

The bill of rights was also passed—ayes 85, noes 9. Today the resolutions of the select committee excluding delegates and all present officeholders from office for two years after the adoption of the constitution were laid upon the table, the question being divided, on the call of Mr. Ryan, and the majority resolution being put there by 64 to 31, and the minority by 60 to 38. So ends this farce.

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[December 1, 1846]

MADISON, Thursday evening, November 26, 1846

We have had since Tuesday scarcely anything else than a continual series of tumultuous and disorderly proceedings, and were not important results involved in the acts of the convention and the body itself entrusted with the dearest interests of the people these proceedings would furnish a more fitting paragraph for your police department (if you had one) than appearing as the report of the business of a convention assembled for the formation of a constitution for a large and populous state. I am aware that similar scenes to some extent are sometimes unavoidable in a large body composed of men of various opinions and representing conflicting interests, and that my frequent allusion to them in this convention may look as if arising from a party bias and an anxiety to exaggerate and publish the misdoings of political opponents. But I can appeal with confidence to any observer of its daily proceedings whether these excitements and disorders are not disgracefully frequent and whether my statements in relation to them are overdrawn or wide of the truth.

One of the chief causes of discord yesterday was an obstinate resistance to several efforts to place again within the control of a majority of the convention the several articles of the constitution after they shall have passed their third reading and gone to the committee on revision. Reasonable and proper as this is, under the expression of the popular will in reference to some of them it has



been most determinedly fought by every species of parliamentary trick and subterfuge and [has] drawn out from the other side most undignified and violent exhibitions of feeling and conduct. The negro suffrage question, too, has added fuel to the flame and been met with an exasperated and violent hostility for which there is no occasion or excuse. But without dwelling on these topics I will proceed to a notice of the business of the day. \* \* \*

In the evening the article on municipal corporations was considered in committee, amended, reported to the convention, and ordered engrossed.

The rules were suspended, and two resolutions of instructions by Mr. Baker were adopted; one, that the miscellaneous committee inquire into the expediency of excluding from any office in the state any person concerned in a duel, and the other, that the judiciary committee report whether the common law, or what part, be adopted as the law of the state.

The resolution to put out the printing of the journal of the convention by contract to the lowest bidder was laid on the table on motion of A. Hyatt Smith, by 44 to 34.

The resolutions of Mr. Judd and Judge Hyer were postponed till Monday.

This was all done quietly in a short time, but on a resolution of Mr. Noggle to amend the eighteenth rule so that the committee on revision and adjustment might be instructed by a majority vote to make alterations in any article in their charge "Bedlam broke loose." The friends of the resolution supposed they were in a sufficient majority to drive it through and were determined to do it, while those opposed were as determined to prevent it. A call of the convention was ordered, which took some half dozen of the members from their beds, and motion came upon motion, and noise upon noise, confusion upon confusion, till finally an adjournment was carried amid tumult which would have done no discredit to a Locofoco nominating meeting in Tammany Hall. \* \* \*

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December 3, 1846]

MADISON, Saturday evening, November 28, 1846

The bickerings of the majority have at length developed themselves in their natural consequences and we have had on the floor of the convention an uncontrolled manifestation of the spirit which has been engendered and fomented during the whole session. \* \* \*



The resolution of Mr. Noggle amending the eighteenth rule was taken up, but laid aside for the consideration of Marshall M. Strong's allowing a majority to strike out but not to insert anything new. (A concession or compromise to strike out the sixth section of the bank article and there stop.) Several amendments were proposed to this. Moses M. Strong asked whether the resolution was not an amendment of the rule and therefore required a two-thirds' vote for its adoption. The President decided it a new rule and within the power of a majority. Mr. Strong appealed, and pending the debate on the appeal, the morning hour expired. Mr. Dennis moved to suspend the rule and go on and decide the appeal. Mr. Magone asked Mr. Dennis to withdraw his motion and let the convention proceed with the regular business of the day, and made an allusion to "a low pettifogging on points of order that had marked the conduct of some members since the commencement of the session." Moses M. Strong asked Mr. Magone whom he meant. Mr. Magone replied that it was easy enough to know, and those whom the coat fitted might put it on. Mr. Strong said he did not like such general imputations, and he did not make the application, although he had no idea but that he was alluded to. If Mr. Magone did mean him, he wished he would have the manliness to say so. Mr. Magone replied he did mean him. Mr. Strong then raised a heavy cane and threw it at Mr. Magone, the cane striking with violence a post near where Mr. Magone was sitting.

Some confusion soon ensued in the hall, but surprise seemed the first and general emotion. The President did not even call to order, and nothing further passed between the two at the time, although just before the adjournment each apologized to the convention, while declining to do so to each other, and Mr. Magone qualifying his apology with the remark, if he had "violated the rules of the convention."

After the transaction just related the convention proceeded to vote on the motion to suspend the rule, and it was lost. \* \* \*

In the evening the article on schools was taken up in committee and discussed all the sitting, on motion by Mr. Dennis to strike out the first section providing for a state superintendent and proposing to leave the supervision of the system to such officers as may hereafter be provided by law. Messrs. Judd and Drake supported the motion, and Messrs. Ryan, Marshall M. Strong, Tweedy, G. B. Smith, Parks, and Bevans opposed it. It was contended on one side that there would be for years but little for a

state superintendent to do, and New York was cited, where the secretary of state performs the duties of superintendent. On the other it was asserted that the greater labor would be in the organization and putting in operation a system, and a liberal policy was urged in the application of the state funds in the supervision of the schools instead of the monopoly of them in the payment of teachers' wages, a large fund for the latter purpose being an injury rather than a benefit to the schools and inducing an indifference towards them on the part of the parents.

During the discussion a sharp conflict occurred between Mr. Judd and Mr. Tweedy. Mr. Judd had spoken in disparagement of the means suggested by Mr. Tweedy and others for the improvement of schools, denying that the late supervision features in the New York system had benefited the schools in that state, speaking lightly of the utility of district libraries, and even terming them "nuisances" (unguardedly and unthinkingly, perhaps, but still using the term although he afterwards disavowed it). Mr. Tweedy came down upon him with great force and severity, called Mr. Judd up in a tart and ill-natured reply. In alluding to Mr. Tweedy he attempted to be severe by making him the "representative of the remnant of what was once called the Whig party" (a rather large remnant, by the way, about these days, and certainly not less than it was a year ago, when Mr. Judd was a candidate for the council on the Whig ticket).

The convention adjourned without taking any question. \* \* \*

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[December 8, 1846]

MADISON, Thursday evening, December 3, 1846

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Mr. Burt's resolution to pay from the public treasury no clerical officer for clerical services was defended by him on the ground that his constituents thought if the legislature hired men to pray for them instead of praying for themselves, the members ought to pay for it out of their own pockets. Mr. Ryan replied that the constituents of Mr. Burt seemed to consider him beyond the reach of prayers, but as for himself, his constituents deemed him to stand in the worst kind of need of them and had sent him here to be prayed for. He was therefore in favor of hiring chaplains. The morning hour cut off action on the resolution.

The boundary question was all opened again by reconsidering the vote of the day before ordering it engrossed (ayes 51, noes 44)

induced by the discovery of an omission in reciting the items prescribed in the act of Congress of August last. Mr. Ryan and Moses M. Strong charged an intentional suppression upon Mr. Doty with a design to cheat the convention, and a regular breeze was got up on the strength of it. Mr. Doty very calmly denied any such intention, and Mr. Hicks thought the cheat was with those who were for striking out the provisions of the ordinance and not exposing the omission till this late hour. Some three or four hours were consumed in this way and in proposing and voting on amendments of different kinds till it was at last referred to the committee of the whole, to go another round of cat-hauling. Really, this boundary question is about as troublesome as Mr. Polk's 54°40', and likely to end in about the same way. \* \* \*

The article on schools was then gone through in committee of the whole and reported to the convention with several amendments. Among them was one moved by Mr. Tweedy, which was concurred in, changing the election of state superintendent by the people to an election or appointment in the manner the legislature shall direct. Another, proposed by Mr. N. F. Hyer, appropriated the proceeds of the university lands to the support of normal schools till a university should be established. This was rejected by a vote of 48 to 51, and a motion by Mr. Magone to reconsider failed, 48 to 52. The section to raise \$1.50 on each child in the district between certain ages was stricken out, and the section prohibiting religious instruction was modified to sectarian instruction. On this amendment Mr. Graham called for the ayes and noes, which were refused, and when adopted but one or two voices were heard against it. The convention refused to fix a salary for the superintendent, a motion by Mr. Magone to that effect failing by 51 to 46.

The article was then ordered engrossed, when Mr. Holcombe moved to reconsider, in order to try again to fix a salary for the superintendent, but was unsuccessful, 48 ayes, to 51 noes.

The article on the organization of the legislature was then taken up with the report of the committee on apportionment. This report was adopted with but feeble opposition to it. So this vexed question is at last settled, and if not satisfactorily, at least peaceably. An amendment was adopted extending the provisions of the section excluding future defaulters from seats in the legislature to such as are at present in default to the national or state government.

Mr. Ryan then moved to amend by making biennial sessions and rather surprised the convention by the favor the proposition



received, it not having been debated or any test had of its strength. It, however, failed—ayes 47, noes 53.

Then came a warm debate and earnest voting on a motion of Mr. Tweedy to restore the single district system in a new section directing the legislature so to divide the state after the next census. Mr. Ryan endeavored to get it ruled out on a point of order, but failed, and then vehemently opposed it. While speaking, Mr. Elmore gave him a text to preach from, in an extract from his own argument on some question relating to the judiciary, where he contended that the smaller the districts the closer the connection of the officer with the constituency, and the consequent influence. He received the text, but like some other preachers still went on to exemplify personally the difference between precept and practice. A. Hyatt Smith offered an amendment giving the legislature "power" so to district and when asked by Mr. Tweedy whether the legislature would not have that power without such a provision replied "Yes," and was charged by Mr. Tweedy with a disposition to dodge the real question. The amendment of Mr. Smith was rejected without a count. The proposition of Mr. Tweedy was supported by Messrs. Parks, Hunkins, Hicks, Drake, and Magone on the ground of its practicability and truly republican character. It was opposed by Mr. Harkin on party grounds exclusively. Mr. Drake, in reference to the former course of Marshall M. Strong, gave him some pretty hard pokes in a good-natured way and imagined he found the two Democratic towns in Racine which gave a delegation to the rest of the county as the obstacle which prevented him from practicing what he admitted to be right in principle. Mr. Tweedy made a speech for his opponents in the nature of a resolution as follows: "*Resolved*, That single districts are right and proper, but it is inexpedient to adopt them in the present condition of the Democratic party in Wisconsin." The question being taken, it was carried as follows: [For the vote see *Wis. Hist. Colls.*, XXVII, Appendix I, roll call 208.]

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[December 10, 1846]

MADISON, Saturday evening, December 5, 1846

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The article on schools and school funds was reported correctly engrossed, when Mr. Noggle asked consent to offer two amendments, one fixing the salary of the state superintendent, and the other



striking out the clause requiring certain fines to be used in the establishment of district libraries. Objections were made by Mr. Ryan, Judd, and others, and of course refused, as it required a unanimous consent or a suspension of the rules. The question was then taken on the passage of the article, and it was passed—ayes 69, noes 28—some of the strongest advocates of a good system voting against it in consequence of what they considered its imperfections.

The article on the legislature was then taken up, and the effect of a stringent party drilling shown in the manner in which the single district system, voted in the day before, was stricken out and the article driven under whip and spur beyond the reach of any future alteration. The first step was taken up by N. F. Hyer, seconded by George Hyer, who stated that they had been convinced by the debate after they gave their votes for Mr. Tweedy's amendment that the single district system was antidemocratic and impracticable, and they were, therefore, in favor of reconsidering, a motion for which was made by N. F. Hyer. (If these gentlemen had said they had been persuaded by the out-door admonitions of the Old Hunker leaders, they would have received more credit for candor, if less for independence.) Moses M. Strong declared he had voted with the majority for the purpose of moving a reconsideration, if no one else should, and appealed most feelingly to the convention to order a reconsideration, as several members favorable to single districts desired to postpone them till after the next United States census. Mr. Magone moved a call of the convention, which was ordered. Mr. Drake made some forcible remarks in favor of the system, most clearly demonstrating its practicability and justice and refuting the objection of its enemies. Mr. Parks also advocated it, having seen its workings in New England. Mr. Harkin replied to these arguments by a convincing speech on whipping Baptists and burning witches in Connecticut under the Puritan rule. The question was then taken on reconsidering and carried as follows: [For the vote see *Wis. Hist. Colls.*, XXVII, Appendix I, roll call 210.]

This effected, Moses M. Strong commenced his usual tactics of saddling riders on the proposition and assailing it with petty amendments, but failing in his first effort, he suffered the question to be taken on the proposition as offered by Mr. Tweedy, and it was rejected as follows: [For the vote see *Wis. Hist. Colls.*, XXVII, Appendix I, roll call 212.]

Thus was undone the work of the day before in obedience to the mandates of party leaders, and a most just and practicable system sacrificed to the wants of a corrupt and necessitous party.

The friends of the system, however, were not disposed to yield the field without another struggle, and Mr. Tweedy renewed his amendment pending the adjournment, Thursday, directing the county boards to district their counties. Moses M. Strong attempted another rider, but was backed off by Mr. Tweedy moving a call of the convention. The question was then taken on the amendment and lost.

Marshall M. Strong now offered an amendment fixing the number of members of the house at not less than sixty nor more than one hundred and twenty, and the senate at not more than a third nor less than a fourth of the house. Several others sprang to their feet with amendments, but Moses M. Strong got the floor and moved the previous question. Mr. Ryan, J. Y. Smith, and others appealed to him to withdraw his motion to allow them to propose amendments, but he refused them all, and the previous question was ordered, and under its operations Marshall M. Strong's amendment was adopted, and the article was then ordered engrossed by a vote of 68 to 31.

One would suppose this was a sufficiently relentless exercise of the power of a majority, but it did not suit Mr. Strong's purpose, and disregarding his pretended anxiety to give a chance to the friends of the system to postpone its operation till a new census might be taken with a view to its more perfect establishment, and forgetting how humbly he went on his knees to the majority on the negro suffrage article in supplicating appeals for a postponement of that question to give a "fair chance" to its opponents [he] now moved a reconsideration of the vote just taken ordering the article engrossed and further moved the previous question on that motion. This gag was again applied, and the convention refused to reconsider (as it was intended it should) and carried out the object of Mr. Strong to place the article beyond the reach of a future reconsideration should a majority hereafter wish to reconsider the present action. The convention then adjourned to the afternoon session, having perpetrated as bold and unblushing an act of party management as was ever witnessed at a ward or town political meeting.

On assembling in the afternoon the convention took up in committee of the whole the article reported by the miscellaneous com-

mittee on the rights of married women and exemption of a homestead from forced sale under execution. The whole of the afternoon and evening session and the two sessions today (except the morning hour) were occupied with them in amendments of almost every imaginable character, proposed with all sorts of objects and discussed in all kinds of manner. The papers here will give the more important propositions and votes upon them, when, if you choose, you can republish them. Meanwhile I will give you the results of the two days' work. The first section was amended on motion of General Smith, making all property of the wife, real or personal, owned by her at the time of her marriage or acquired afterwards from any source except from her husband, her separate property and not liable for the debts of her husband. Laws are to be passed for a registry of such property and more clearly defining her rights thereto. To this a clause was added, on motion of Marshall M. Strong, making the property of the woman liable for debts contracted before her marriage—ayes 90, noes 9.

The exemption was made to cover forty acres of land (mining or agricultural) to be selected by the owner, or the homestead of a family not exceeding forty acres, out of any village or city, or, at the option of the debtor, any village or city lot or lots occupied as a homestead, not exceeding in value \_\_\_\_\_ dollars. The exemption is confined to debts upon contracts made after the adoption of the constitution and is not to affect any mechanic's or laborer's lien, or any mortgage lawfully obtained. A married man cannot cultivate the exempted real estate without the consent of his wife. This amendment was adopted by 64 to 34, and the article as amended was ordered engrossed by 58 to 41.

A determined opposition to the whole matter had been manifested throughout its consideration and Mr. Magone, to secure what had been thus far gained, moved to reconsider the vote of engrossment, which was of course voted down, and Mr. Manahan moved to suspend the rules and put the article on its third reading and final passage then; but pending this question an adjournment was moved and carried, Mr. Hunkins prior to the adjournment giving notice of a "Democratic caucus" in the evening in the convention hall. \* \* \*



[December 12, 1846]

MADISON, Tuesday evening, December 8, 1846

The closing scenes of the drama are now enacting, although the precise time when the curtain will fall cannot be told. That will depend upon the desperation of the dying struggles on the various propositions as to the alterations of the rules and the attendant ceremonies.

Yesterday morning the resolution to put out by contract the printing of the state and prohibiting the election of a state printer was indefinitely postponed by a vote of 48 to 40 after a well-contested effort to adopt it.

The article on the rights of married women and the exemption of a homestead was then taken up, and on a motion by Mr. Lovell to suspend the rules and refer the article to a select committee with instructions to strike out the first section and modify the second a debate ensued which consumed the forenoon. Marshall M. Strong led off in an able and calm speech in condemnation of the provisions of the article and in a severe rebuke of the improprieties and turbulence of manner in which it had been discussed and the discourtesy with which its opponents had been treated. He declared he had used his best endeavors to get a constitution that would be an honor to the convention and a blessing to the state and he had until the proceedings on the article intended to support the constitution now forming, but if this article were adopted, he should feel it his duty to go home and oppose the constitution. This speech will be prepared by Mr. Strong and published, and I will furnish you with a copy<sup>8</sup>.

The debate was continued by several other members and with a marked improvement in the style and character of the discussion of Friday and Saturday (which, by the way, I then deemed so near a farce as to deserve no other notice than the summary one which I gave it) and resulted in the passage of the article under the previous question and a call of the house, as follows: [For the vote see *Wis. Hist. Colls.*, XXVII, Appendix I, roll call 236.]

In the afternoon the ordinance on the boundaries was again taken up, and after being cuffed about all the session was ordered engrossed with the recital of the boundaries stricken out and a section authorizing the prosecution of a suit in the Supreme Court of the United States in relation to the southern line.

<sup>8</sup> For this speech see Vol. II, journal of the convention for Monday, Dec. 7, 1846.



In the evening the session was opened by the reading and acceptance of the resignation of Marshall M. Strong as a member of the convention.

The schedule was then considered, when Moses M. Strong moved to change the time of voting on the constitution to the first Tuesday in June next. Mr. Magone moved the first Monday after the first day of July. These propositions led to considerable debate, Mr. Strong contending for time for mature deliberation and the assembling of the people in public meetings and desiring a chance to address the people of the east as well as the west in favor of the constitution. Mr. Ryan and one or two others thought a special election would draw out a greater proportion of opponents to the constitution than the day of town meeting (the one proposed in the schedule) and the motion further to postpone was lost. (Why, under these apprehensions, submit it to the people at all?)

Mr. Huebschmann offered an amendment bestowing upon unnaturalized foreigners who have declared an intention to become citizens and who may be residents of the state at the time of the adoption of the constitution the full rights of suffrage without an oath of allegiance. It was contended by Mr. Huebschmann and the supporters of the amendment that such foreigners having participated in the formation of the constitution become invested by it with all the rights it can bestow; and the President taking the further ground of expediency in view of gaining votes for the constitution.

Mr. Ryan in reply to several allusions made to him opposed the amendment very strenuously at some length. He contended that allegiance and suffrage should go together and considered he complimented foreigners when he said they did not desire to separate the two. A foreigner allowed to vote without an oath of allegiance might return to his own country and bear arms against this and if taken in the act would be no more liable to our laws than if he had never been in our country. He had seen men voting at our elections under the kind of laws proposed by Mr. Huebschmann when we were threatened with a war about Oregon, who asserted that their allegiance was with England and declared they would fight under her flag if hostilities should break out. He sternly rebuked the popularity hunting manifested in these efforts to give undue facilities to the voting of foreigners as disreputable to those seeking it and unwelcome to the foreigners themselves.

In reply to the ground of right assumed by the advocates of the amendment, Moses M. Strong took the position that although all foreigners at the time of agreeing to go into a state government might be entitled to a voice and vote in the formation of the constitution, they were bound by its provisions after it was adopted, and it was in the power of the convention to prescribe the qualifications for suffrage as it pleased.

Mr. Harkin, Mr. Bevans, and Mr. Parkinson corroborated the statements of Mr. Ryan as to foreigners voting who absolutely refused to take an oath of allegiance and held themselves in readiness to return to their native country with a boast that they had never sworn allegiance to this.

The discussion was interrupted by an adjournment in the evening at ten o'clock (at which hour a call of the convention was ordered for the sake of a frolic and persisted in, on the report of progress by the chairman of the committee of the whole) and this morning on a request for leave of absence for Mr. Tweedy, by Mr. Reed. Moses M. Strong interposed an objection for the reason that he wanted Mr. Tweedy's vote as the leader of the Whig party on this amendment of Mr. Huebschmann for political purposes. The request was laid on the table under an assurance that Mr. Tweedy would be present to vote as he had no wish to avoid a vote on this or any other question. In the course of the forenoon Mr. Tweedy took his seat and gave the opinions and vote so anxiously desired. He referred to the action of the convention on his request and remarked that he felt little interest in the question before the convention and, being a Whig, he did not know that he had a right to say anything on a subject so particularly in the charge of the majority. He, nevertheless, had no wish to conceal his opinions and without pretending to speak for anybody but himself he should state his views. He had never sought the foreign vote at the expense of principle and never should. Mr. Tweedy then stated in general terms that he concurred in the positions of Mr. Ryan in his speech on the suffrage article. That speech had convinced him that allegiance should go with suffrage, and, while he believed the foreigners in his district were loyal in their hearts to this country and intended to become citizens, he could see no just reason why they should not declare that intention and take an oath of allegiance. The feeling expressed by the remonstrants against the suffrage article he deemed to have been excited by false representations of their friends and by promises of politicians, which could not be fulfilled. He stood by the suffrage article and was willing to abide its provisions.

Mr. Drake endorsed the views of Mr. Tweedy as his individual opinions and feelings without assuming to speak for the Whig party.

An amendment offered by Mr. Turner requiring an oath of allegiance to the United States was lost, and Mr. Huebschmann's was adopted as follows: [For the vote see *Wis. Hist. Colls.*, XXVII, Appendix I, roll call 241.]

In connection with this subject, an incident seemed most strikingly illustrative of the motives and design of the Locofoco leaders in their action in this matter. After the adoption of the amendment of Mr. Huebschmann, Mr. Hicks offered one making the qualifications of electors and eligibility to office the same, remarking that those who were fit to be made electors were fit to hold office. This was rejected, only 17 voting in favor to 68 against. So in the opinion of a Locofoco constitutional convention, foreigners are good enough to hoist its members into office, but are to be prohibited from getting there themselves. This is no doubt an honest and real expression of the feelings of the Locofoco leaders, but its "democracy" may well be questioned. \* \* \*

[December 17, 1846]

MADISON, Saturday evening, December 12, 1846

There has been but little business of interest for the last two days. Since the failure to modify the bank article there seems to be a general acquiescence to let the constitution go out as it is, for better or worse. What has been done has been a refusal to reconsider the negro suffrage article, the reception and adoption of the report of the committee of revision, a refusal to submit the bank article separately to the people (44 to 26), the disposal of the printing of the journal of the convention, and some other smaller matters.

The question of reconsidering the negro suffrage article was taken up on the motion of Mr. Vineyard under the call of Moses M. Strong and was preceded by a very pathetic speech from Mr. Strong, in which he declared this constitution was the best in the Union, though marked by some imperfections, and appealed very feelingly to its friends to strike this blemish from its fair features, so that the west might support it heartily, and at the same time be disabused of the bad opinion that section of the territory had formed of their eastern neighbors. His appeals, however, were unheeded, and for once the east refused to be driven under the lash of the west. The vote stood 25 ayes, 63 noes.



The printing question was reopened on the resolutions of General Smith, submitted some time since. Mr. Huebschmann moved to give the journal and constitution printing to Mr. Schoeffler of your city, but received only 13 votes. It is asserted, however, on good authority that Mr. Huebschmann had the positive promises of a majority of the convention to support Mr. Schoeffler, including the whole of the Locofoco Waukesha delegation and all your delegation present, except Mr. Magone. But when the question was taken the President left the chair and skulked out of the room or into the lobby, and every one of your delegation except Mr. Chase and Mr. Huebschmann voted a plump "no," and the Waukesha delegation followed suit. Subsequently, against considerable opposition, Mr. Schoeffler was employed to translate and print five thousand copies of the constitution in German and two thousand copies in Norwegian. Twenty thousand copies in English are to be printed by Mr. Brown of the *Democrat*.

In connection with this a good deal of boisterous fun was had in a "regular" way, on motions by Mr. Phelps to translate and print in the Potawatomi, Chippewa, Winnebago, and other Indian languages; and, in fact, most of the doings of the two last days came under this order of business. \* \* \*

On the negro suffrage resolution there was a peculiar manifestation of the "Democratic" spirit. A. Hyatt Smith moved its enrollment on a separate parchment from the rest of the constitution, to be signed by the president and secretary, declaring he would not sign the constitution if that resolution was attached to it. In this he was supported by several others, and the motion was adopted. The plain translation of this language is: The work is too nasty for us but just fit for the president and secretary! Very complimentary to those officers, truly, as well as a choice commentary on professions of equal rights.

On the report of the boundary article from the committee there was a premonition of another somerset. Moses M. Strong, to appease Colonel Parkinson, moved to reconsider it, and was for going ahead with it without delay, till he was reminded by Mr. Elmore that he was getting along too fast and must wait another day. Mr. Holcombe jokingly says there are seven parties in the convention on this question and each have been twice in the majority; but really this continual backing and pulling is mere boy's play, and the action of the convention upon it is getting beneath contempt. \* \* \*



[December 21, 1846]

MADISON, Tuesday evening, December 15, 1846

We have at last the finishing labors of the Wisconsin constitutional convention, and meager enough is the history of its last moments. But one business session has been held since Saturday, and the principal proceedings then were the adoption of the resolution allowing \$4 a day to the assistant clerks, and raising the pay of members and the inferior officers to \$2.50 from the third of November last, when a cash payment was made by the territorial treasurer. This proposition of raising the pay of members was offered by Mr. Chase of your county and first made for \$3 a day accompanied by a preamble reciting that the scrip to be issued for payment of arrearages was at a discount of twenty-five per cent and the time of redemption uncertain. This was debated by Mr. Ryan, J. Y. Smith, and Mr. Judd in opposition, and by W. R. Smith, H. Chase, and Mr. Magone in support. It was argued in favor that the legislature had no power to fix the compensation of the convention, and the reason why members declined to do this act of justice to themselves was a fear of their popularity among the people. But even admitting the authority of the law, it was only justice to make good to the members the amount specified in it, and, if they were to be paid in a depreciated paper, the loss should fall on the territory and not on those who had spent their time and given their services here. On the other side it was contended that the election of delegates was had under an implied contract on the part of the candidates to receive only \$2 a day, and in good faith they were bound to appropriate only that amount. The treasurer, moreover, had no authority to pay more than the law specified, and if more was appropriated, the convention should provide the means to meet it. The motion to pay \$3 was lost—40 to 37—and \$2.50 carried by 39 to 38.

Mr. Noggle attempted to get up the reconsideration of the northwestern boundary but was declared out of order.

One hundred dollars was voted to each of the chaplains for services during the session.

A. Hyatt Smith offered a resolution to adjourn sine die Wednesday morning at eight o'clock, which was adopted, and thus closed at Monday noon the business of the convention, although two days' pay is to be drawn thereafter. Meanwhile the scrip had been distributed to the members, and three-quarters or more are now on the way home.

This morning the convention met or attempted to meet at the usual hour, but there were only eleven members present, and an adjournment was had till tomorrow morning at eight o'clock, when, unless the residents of the village be called in to fill up the seats, the President's valedictory will be delivered to as formidable "an array of empty boxes" as ever greeted the appearance of a broken-down stock actor on a benefit night.

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[December 22, 1846]

MADISON, Thursday evening, December 17, 1846

The final adjournment was had yesterday morning at eight o'clock. About twenty-five members were present and the proceedings were as brief as [they were] uninteresting. Mr. Jenkins presented a protest against the increase of the pay of the members. The committee of revision reported the constitution correctly enrolled, and General Smith offered a complimentary resolution for the "able, faithful, and impartial manner" in which the President had discharged his duty. (It has been customary, heretofore, for a member of the minority to do this, but whether this rule was departed from in the present instance because no Whig was willing so far to play the hypocrite I cannot tell, but perhaps the Chair will explain.) To this the President responded in the usual style, when the convention adjourned sine die in time to allow the attendants to take the morning stages, and draw a day's pay for the members and the whole list of absentees.

Thus terminated the existence of a body which, commencing as a party assemblage, continued throughout in turbulence and faction, and whose labors at last failed to receive the sanction of a very large proportion of its members—a body in which the indecision of its presiding officer has given an unrestrained license to the outbreaks of anger, the bickerings of jealousy, and a disgraceful trifling with legislative decorum and propriety—a body in which almost every question has been decided with reference to ulterior views and selfish designs—a body whose session has been protracted by its quarrels far beyond the most ample time necessary for the transaction of its business—in short, a body without elevation of purpose, consistency, or fairness of action, or dignity of deportment, which never was respected by the people, and whose death has given the greatest satisfaction it has ever caused.

P. S. Public business thus disposed of, now for a treat of personal matters.

Visiting the room of the Secretary of the convention in the early part of the evening, today, I found there Mr. Upham, the president of the convention, in company with the Secretary and two assistants. Soon after entering I was accosted very angrily by Mr. Upham with a demand whether I was the writer of the letters in the *Sentinel and Gazette*, and, on my question for what purpose he made the demand, he continued (increasing his demonstrations of anger) that they were outrageously abusive, and as we were strangers to each other, demanded why I thus treated him. I replied that they related to his public conduct, when he rejoined that they were personal and outrageous, and if it were not for my size (being, by the way, of small stature, while he is very large and athletic) he would thrash me outrageously. Having thus declared himself, he came to me and struck me in the face while sitting in a chair, and immediately stepped back. On my rising and remarking that my size need not deter him from completing his wishes, and that if he thought by such an act as he had just committed he would benefit his character as a man or a public officer he was welcome to all he could make out of it, he replied he had insulted "me" and should attend to my "masters" when he got home.

So the spirit of bullyism is "progressive" and ascending. Heretofore, it has been confined to the members. Now it breaks out between the President and the reporters. Well, so be it; if the blow given me establishes the falsity of the facts reported, or controverts the inferences drawn from them, then the President stands before the people vindicated from my reports; but if he has only added a violent outbreak of passion and confirmed the truth of my charges, then he may credit himself with such an involuntary testimony to the force and effect of my strictures.

LETTERS TO THE PLATTEVILLE *INDEPENDENT*  
*AMERICAN*

[October 23, 1846]

MADISON, October 15, 1846

It is said that large bodies move slowly, and the present convention, I fear, before the adjournment will be a notable example of the truth of the adage.

The convention has already been engaged some four days in the consideration of the article reported by the majority of the committee on banks and banking and the substitutes and amendments thereto.

The article reported by the majority of the committee prohibits the incorporation of any bank in this state and provides that any person exercising any banking powers in this state shall be punished by fine not less than ten thousand dollars and imprisonment in the penitentiary not less than five years. And also prohibits under a penalty of five hundred dollars or imprisonment of three months the passing of any bill of any banking institution within this state.

The substitute to the article reported by the majority of the committee, offered by W. R. Smith of Iowa, simply prohibits the legislature creating any banking institution in this state.

Mr. Hicks of Grant offered an amendment to the substitute of Mr. Smith of Iowa prohibiting the incorporation of any bank within this state, and the passing of any paper money, bank note, promissory note, treasury note, certificate of deposit, or other evidence of debt intended to circulate as money, issued either within or out of this state, and provides that a violation shall be punished by a fine of \$5,000 and imprisonment not less than two years nor more than ten years. Upon these three propositions some four days have been spent by the convention at an expense of some \$1,200 to the taxpayers.

Under the amendment of Mr. Hicks it seems questionable whether the president of the United States and the secretary of the treasury of the United States (if the amendment could be enforced) might not become inmates of the penitentiary. There have been some thirty speeches made upon these various propositions, some confined to the question, some evidently and purposely made for buncombe.

The amendment of Mr. Hicks has been voted down by about 100 to 15, a few minutes since, and Mr. Baker of Walworth has just



introduced another amendment intended as a substitute for all the propositions before the convention. It prohibits any banking in this state, and I am inclined to think will meet with general approbation by the convention. It is believed that this bank question will act as a kind of safety valve and save a great many speeches upon other questions. Heaven grant it may be so!

Mr. Strong of Iowa this morning called up his resolution to adjourn, and after an amendment by inserting as the day of adjournment Monday, the second day of November, moved the adoption of the resolution; but it was almost unanimously voted down.

There is quite a seditious spirit among the Democrats. They have applied all kinds of epithets to each division—"hards," "softs," Old Hunkers, Young Democrats, Tadpoles, and Crawfish Democrats.

There has been some very spirited sparring between Ryan and Strong on the one side, and General Smith of Iowa on the other side. The General wields the brighter armor and seems a Saladin against his opponents, and in the tilts and tournaments thus far has afforded great amusement to the convention by shivering the lances of all who enter the jousts. It is thought a final vote may be reached this night—doubtful—if reached this week. The convention is numerous and composed of such materials that the attempt to put them in leading strings, to move at the beck of any leader, has utterly failed, and it has become a "fixed fact" that the real Democrats, the farmers and mechanics, will do what they believe right, regardless of any leaders.

Yours, etc.

X

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MADISON, October 17, 1846

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From the best information I can gather I am inclined to believe that the right of suffrage will be given to all aliens within the state at the time of the adoption of the constitution, upon their filing their declaration to become citizens of the United States and taking an oath of allegiance to this and the United States.

There is a spirit of radicalism and ultraism in the convention, if not alarming, at least well calculated to excite suspicion.

In reference to the judiciary there is quite a diversity of opinion, and some, if not a majority, of the able men in the convention will

strenuously oppose the election of the judges by the people. Strong and Ryan of Racine, Tweedy of Milwaukee, and various others will endeavor to secure some other way of selecting our judges.

However, those in favor of the election by the people have been so active in the matter that in connection with votes pledged to that mode there seems but little doubt the judiciary will be dependent upon the sovereigns for their office.

If the judges be elected by general ticket, probably nine-tenths of the voters will have no knowledge of the qualifications of the candidates; if elected by districts, then there will be some districts destitute of men qualified to sit in judgment upon the lives and property of their fellow men.

A more exceptionable plan could hardly be devised.

In the election of members of Congress and of the legislature the consequences are only political—affecting all—very uncertain—and may prove entirely abortive. But the acts of the judges are certain—affecting individuals; and the ignorance or corruption of the judge is not controlled or overruled by a multitude of associates.

Yours,

X

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[October 30, 1846]

MADISON, October 21, 1846

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The report of the committee on suffrage and the elective franchise has now been under discussion for two days. A sharp debate sprang up today on a proposed amendment, so as to extend the right of suffrage to the negroes, in which Ryan of Racine, Strong of Iowa, and Tweedy of Milwaukee participated. One of the ablest arguments in favor of admitting the negro to the right of suffrage I ever heard was made by Tweedy. However, the convention is certain to reject the proposed amendment, and no very large minority can be obtained for it.

Yours, etc.,

X

P. S. The convention came to a vote this afternoon on the question of striking out the word "white," so as to give the right of suffrage to the negro, and but nineteen voted for it. So that political abolitionism finds no favor with this convention.

[November 6, 1846]

MADISON, October 29, 1846

FRIEND MARSH: The article in relation to organizing and disciplining the militia has passed and been ordered to be engrossed in nearly the same shape it was when reported by the chairman, W. R. Smith.

We are thus, it seems, likely to be cursed with the farce of militia trainings and musters to gratify the vanity of would-be great men, and to dub with high military titles some of the aspiring, to the great annoyance of and expense of the people. I sincerely hope the whole article may yet be defeated, as a more pernicious and useless requirement of the citizen could scarcely be made than the training and mustering of the militia in time of peace. The costs of these trainings and musterings in payment of officers, loss of time, and expenditures of money, in being dragged from home and business, and the costs of equipments, etc., will yearly amount to a sum sufficient to support a school in each school district in the state for three months.

It is said the territory has already been put to an expense of several thousand dollars in attempts to organize and discipline the militia, without any benefit whatever, except that it has enabled us to draw our quota of arms from the United States—15 (I think) old rusty muskets, worth perhaps \$75! The older states are learning the folly and uselessness of the militia system in time of peace; and the days of gingerbread and sweet cider are past or passing into forgetfulness. \* \* \*

There is a strange spirit at work here to break down and keep down J. D. Doty. The convention and the people are so constantly kept on the qui vive by the hints and warnings of his enemies that they will make a great man of him nolens volens.

Today Doty, as chairman of the committee on boundaries, name, etc., of the state of Wisconsin, made an able report. The report accepts the boundaries prescribed by Congress, but expressly reserves the right of this state to test her right to that part of Illinois stolen from us contrary to the ordinance, and also to the part of the territory given to Michigan by a suit in the Supreme Court of the United States.

The report does not spell Wisconsin with a *k*.<sup>9</sup> One thousand copies were ordered to be printed.

(In haste, yours,) etc.

X

<sup>9</sup> As governor of the territory Doty had exerted his official influence in favor of spelling the name "Wiskonsan."

MADISON, October 31, 1846

FRIEND MARSH: The convention has now been in session four weeks and according to public expectation ought to be near its final adjournment. But what think you are the facts? The convention has scarcely begun its labors, having finally agreed upon but two articles of the constitution, the articles in relation to banks and suffrage, and ordered to engrossment the provision for amendments of the constitution. The convention will, I fear, sit until it may be ousted to make room for the next legislature.

The provision made for amending or altering the constitution as now engrossed authorizes the legislature to propose any amendment it deems proper, upon a two-thirds' vote, and to submit the same for adoption by the people at the next ensuing election thereafter.

The proposed amendment or alteration shall be published three months previous to such election, and if a majority of the votes cast upon that subject be in favor of the alteration, it shall become a part of the constitution.

The gentlemen who were so very distrustful of the people in relation to banks have thus left wide open the door to introduce all sorts of innovations. With such facilities for change of the fundamental law eighteen months will at any time be sufficient to establish in our midst wildcat banks and visionary railroads, should the people along the lake desire it.

Propositions were made to authorize the state to incur indebtedness to the amount of the value of the lands that have been or may hereafter be appropriated by Congress to the state for purposes of internal improvement, in order to carry on such internal improvements as might hereafter be thought expedient. But that the law authorizing such indebtedness should be null and void unless on a submission to a vote of the people the said law was approved by a majority of the voters. Although the 500,000 acres which we are to have on admission and the grant of some 400,000 acres for the improvement of the Fox and Wisconsin rivers are specially set apart for the purposes of internal improvement, yet the suspicious "hards" vote down any and all plans whereby the state might safely and beneficially expend these grants.

These same gentlemen however are willing to make the constitution as changeable in all its features as ordinary acts of legislature. Such consistency seems to me much like the trickery of the demagogue. I do not know how others may view it, but I am inclined to the opinion that the facility with which the constitution



may be changed will save it from rejection by the people rather than any great merit it may possess.

The convention sits every day about seven hours—about half of this time is consumed in calls of the ayes and noes on ridiculous amendments, proposed many times, one would think, solely to get the mover's name on the journal.

I regret the per diem had not been fixed by the legislature at \$1 instead of \$2 per day, as I feel sure such pay would have ensured a more speedy dispatch of business. With \$2 per day and a fair prospect of the money the convention may spend the Christmas holidays at Madison. It seems the general opinion that the convention will adjourn sine die within three weeks—*nous verons*.

There has been much sickness in most of the eastern and middle counties, and some twenty-eight members are now away in consequence of illness of themselves or families. The truth is Grant and Iowa counties, from what facts I can gather, have had less sickness this year than any other part of the territory.

A resolution was introduced today by Randall of Waukesha, requiring each member, on Monday morning next, before the clerk of the supreme court, to take and subscribe an oath to disregard all party feelings and sectional prejudice and faithfully and honestly discharge his duty as a member of this convention. The resolution did not pass, but its introduction by a Democrat in a convention where that party numbers about six to one Whig, and after a session of four weeks, shows too plainly the state of affairs existing at the capitol. Indeed some would-be leaders have rendered themselves so obnoxious by their ultraism and the domineering spirit with which they attempted to force upon the people their crudities, that now, whenever they offer anything right or reasonable, they are voted down instanter. It now frequently happens that any amendment they wish, they are obliged to beseech some person of the other section of the party or some Whig to offer it before the convention or it will have no chance of adoption. An instance like this occurred today. Yesterday, while the article on the public debt was under consideration, Ryan of Racine offered an amendment—well enough perhaps to have been adopted,—but it was voted down and so declared by the President; but on Ryan's motion the ayes and noes were called and it was again voted down.

This morning the same amendment was copied verbatim et literatim by W. R. Smith, handed to Mr. Parkinson, and by him

offered, and being advocated by General Smith, it carried by a large vote.

Such is a specimen of the harmony and unity of the convention. But I see I've already made my yarn too long.

Yours, etc.,  
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[November 13, 1846]

MADISON, November 5, 1846

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It is difficult to tell you what progress has been made since my last letter. On Monday last the President announced that he had received a communication from the Treasurer of the territory, conveying the intelligence that he had some ten thousand and odd hundred dollars subject to the order of the convention. This news put a stop to all order and business, and the cry of "Thalassa," raised by the ten thousand Greeks on their return from the war against Artaxerxes when they first discovered the sea, could not more effectually have put an end to discipline and order than the news of money—no business could be transacted until the convention had passed the necessary resolutions to distribute the funds—\$50 and mileage to each member and various sums to secretaries, printers, etc. A resolution was introduced by the chairman of the committee on expenses to pay to the chaplain \$2.50 per day out of the funds in the hands of the Treasurer. An amendment was offered by Barber of Grant for payment of the chaplain by the voluntary contribution of the members of the convention—it was lost, having received only some twenty votes in its favor. Strong of Iowa moved to amend by striking out \$2.50 and inserting \$6, and in support of his amendment remarked that he thought \$6 per day a small compensation to the chaplain for the arduous duties of reconciling conscience to its God and making preparations to pray for such a set of outlaws and scapegraces as this convention, and he sincerely hoped the amendment would prevail. Strong had just returned from the Iowa district court, and being in fine mood during the whole of Monday and Tuesday, he made "confusion worse confounded" by his ludicrous remarks, calls of order, and attempted witty speeches.

There was one singular move made in convention on Monday (which I had almost forgotten) by General Smith, to allow to each member \$3 instead of \$2, the sum fixed by law as per diem. The General strenuously advocated the resolution by him introduced for

this purpose and maintained that the legislature had no right to prescribe the compensation of the members of this convention, that it was a beggarly pay, and he hoped the convention would pass a resolution to fix the per diem at \$3. Under the rules of the convention the resolution was laid over till next day. From outdoor remarks of members that evening I am satisfied the resolution would have prevailed on a silent vote, but the next morning when the resolution was called up and a bold stand had been taken against it by several members, on the ordering of the ayes and noes by the convention, the Adjutant General's courage failed him and he asked and obtained leave to withdraw his resolution.

On Wednesday the members and officers had a chance at the public crib, and after having exhausted it of the last kernel, returned to duty. The first order of business, the consideration of the report of the judiciary, was postponed till Monday week in consequence of the absence of Mr. Baker, the chairman.

The convention then took up the article reported as a bill of rights, and after substituting new sections for nearly every one in the original report, it was on Wednesday ordered to be engrossed for its final passage. One provision in the bill of rights, that "the legislature shall pass no law impairing the validity of contracts," excited much debate. Tweedy moved to insert before the word "law" the word "retroactive" and after the word "validity" the words "or remedy"—so that it would read, "The legislature shall pass no retroactive law impairing the validity or remedy of contracts." The object of the amendments was effectually to restrict the legislature from passing stay laws or laws requiring execution creditors to take property at a valuation on sale on execution—in fine, to prevent the legislature ever passing any law which should impair the legal remedies for enforcing the contract which might have existed at the time of making the contract. Tweedy made decidedly "the speech" in the discussion of this subject. The amendment did not, however, prevail—but the only reason I apprehend why it did not was that the Supreme Court of the United States, in the two cases of *Brownson vs. Kinzie* and *McCracken*, have decided explicitly that any law which impairs the legal remedies existing at the time of making a contract impairs its validity and is unconstitutional, and the convention therefore thought the insertion of these words unnecessary.

In haste,

X



MADISON, November 6, 1846

FRIEND MARSH: The business of the day has been the consideration of the article in relation to the executive of the state and the power and duties of the executive. The term of office as fixed in the committee of the whole for the governor, lieutenant governor, secretary, auditor, treasurer, and attorney general is two years. The article as reported by the committee places the salary for governor at \$1,500; for each of the other officers except the lieutenant governor at \$1,000; and the lieutenant governor has for his compensation, as president of the senate, double the per diem of other members of the senate.

An attempt was made to reduce the salary of the governor to \$1,000, but there seemed a total recklessness in the convention. Magone of Milwaukee moved to strike out \$1,500 and insert \$2,000—both amendments were lost. A motion was then made by Barber of Grant to leave the matter for the legislature to determine his compensation, which should not exceed \$1,200, nor be less than \$800—but this with all other amendments and propositions to reduce the salary totally failed. An amendment was then made requiring the governor to reside at the seat of government, which was adopted. A. H. Smith of Rock moved as an amendment that the governor should be furnished by the state [with] a suitable dwelling house and furniture. Ryan moved to amend by adding also “outhouses.” Bennett of Racine moved to amend by adding “and also a coach and six horses and two liveried footmen.” Ryan moved to amend by inserting the word “bobtailed” before the word “horses.” The reading was then called for—all the amendments having been adopted. M. M. Strong, in the chair, read—“The governor shall receive as a compensation for his services a salary of \$1,500 per annum and shall also be furnished by the state with a suitable dwelling house, outhouses, and furniture, and also a coach and six bobtailed horses, and two liveried footmen.”

Mr. Wakeley, a staid, elderly gentleman from Walworth, gravely moved to amend by striking out the word “bob” and leave the tails standing, which amendment, after repeated calls for the reading thereof, and after the Chair had been obliged to repeat the last amendment, “bob! bob! bob!” was adopted. During the pending of all these amendments A. Hyatt Smith, who had in good faith offered the amendment to provide the governor a house and furniture, attracted all eyes and evidently exhibited a greater tendency of blood to the head than his rubicund face usually indicates. But



after the convention had had sufficient laughter all amendments were rejected, and the article passed with very slight alterations from the article reported by the committee. An attempt was made while the article was under consideration to take from the governor the pardoning power and vest it in the legislature—but it failed.

All agree that it was unkind of Ryan to bring his friend Smith into the dilemma he did, as Smith has invariably supported all the "crudities" and ultraisms of the Old Hunkers, to which party he and Ryan both belong.

Today Strong of Iowa took occasion to give the Democrats a lecture. He said he had found at an early day of the session that an attempt was making to put down the old tried leaders of the Democratic party and to create a new party and new leaders—that the attempt so far as this convention was concerned had been successful and the mutiny had succeeded—that he found the Democrats here, instead of attending to the business of their constituents, had spent their time and energies in trying "to make big men out of little ones, and little men out of big ones"—that for himself he sincerely wished an article had been adopted in the beginning of the session, to be incorporated into the constitution, disqualifying every member from holding any office to be created by this constitution, for the two years after its adoption. As soon as he had taken his seat, Magone of Milwaukee, who is a kind of leader in the defection, offered a resolution requiring the committee on miscellaneous provisions to report an article, to become a part of this constitution, prohibiting any member of this convention from holding any office for the space of two years, created by this constitution. The resolution was received and lies over till tomorrow for consideration. Of its fate I will tell you anon.

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MADISON, November 8, 1846

FRIEND MARSH: In my letter of the sixth I informed you of the resolution introduced by Magone of Milwaukee, requiring the committee on miscellaneous provisions to report an article, to become a part of the constitution, disqualifying every member to hold any office of trust or profit, created by the constitution, for the space of two years after its adoption. This morning the resolution came up for consideration, when Edgerton of Waukesha (one of the Young Democracy) offered an amendment prohibiting every person now holding any office in the territory by appointment of the

president of the United States or under the United States from holding any office after the adoption of the constitution, for the space of two years, and the ayes and noes being called, the amendment was lost by two votes. The ayes and noes being again ordered, upon the resolution of Magone the resolution was adopted by a majority of three votes. An amendment was then offered by Huebschmann (Young Democrat) of Milwaukee, disqualifying for two years after the adoption of the constitution every member of this convention for the office of member of Congress or senator in the United States Senate, and to this amendment another amendment of Steele of Racine (Young Democrat) was offered, prohibiting every person in the territory holding office at the time of the adoption of the constitution from holding any office in the state until two years after the adoption of the constitution. The vote being taken by ayes and noes, the amendment and the amendment thereto were adopted—so the committee will have to report an article disfranchising every member of the convention and every officer of the territory holding office at the time of the adoption of the constitution, for two years thereafter. The fate of the article when reported will be somewhat problematical.

It was suggested during the consideration of these matters that there was no need of such a disfranchisement clause in the constitution—that the party had rendered themselves so obnoxious by their ultraism and dishonesty here that the people would need no clause in the constitution in order to keep them out of office for years to come. Such is a fair exhibition of the harmony in the great Democratic family of Wisconsin! The Whigs regard the family quarrel of the Locos somewhat like the contest between the snake and the hawk—and if by a self-sacrifice of some twenty Whigs they can effectually exterminate the cormorant leaders of the other party, they will do it with hearty goodwill. It is impossible to tell the great adhesiveness of such materials as the Democratic members of this convention, or what the future may disclose—but if great changes be not effected before the adjournment, a thorough radical political revolution will be effected before two years. But we shall see what we shall see. I do not believe there is scarce a member here but wishes fever and ague or something worse had detained him at home.

Marshall M. Strong, who was a prominent man and regarded as certain of high preferment in the new order of things when we assume state sovereignty, by his vacillating course—sometimes acting as in the early part of the session with the Old Hunkers—

then going with the Young Democracy—as of late, a strong abolitionist—last winter, the leader of that fanatical party—now, equally as strong in anti-Abolitionism—is now considered by all as effectually laid out and to be trusted by none, and I apprehend both wings of his party will say, “So mote it be.” But I have already written more than I thought when I commenced this letter.

Yours, etc.,

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[November 20, 1846]

MADISON, November 15, 1846

FRIEND MARSH: The members of the convention during the past week have evinced a more sincere desire to attend to their duty than at any previous time. The Democracy have become somewhat alarmed for the fate of the constitution before the people—and well they might be. There is one universal expression of indignation and contempt, east of the capital, among Democrats and Whigs, at the absurd ultraisms of the majority here. Members, on their return, after an absence of two or three weeks, all concur in saying that the constitution will meet the general execration of the whole people. Parks, the former receiver at the Milwaukee Land Office, returned last evening after an absence of about ten days. He had been at Milwaukee—through the county of Waukesha, where he lives—had seen men from several other counties—and of all the men he saw, he found not one who did not unhesitatingly say that he would vote against the constitution. Unless the convention take the back track and undo all of the prominent measures and adopt a liberal and wise constitution, and give a long time to the people for reflection before submission to a vote, then its fate is sealed. You may therefore look for tall crawfishing among the ultras. It is really to be hoped that so much time and money may not prove to be [of] no benefit to the people. As the matters now stand, 'tis hoping almost against hope for any good result from this convention.

During the past week they have disposed of the article relating to the executive. The governor has the usual veto power—a salary of \$1,000 per year, and holds his office for two years—resides anywhere in the state. The secretary of state is also to be auditor, and the compensation of secretary, treasurer, and attorney-general to be prescribed by the legislature.

The article to abolish all laws for the collection of debts of less than \$100, reported by General Crawford, was rejected—only



some twenty votes being cast in its favor. Such ridiculous propositions ought never to have been entertained; but, out of sympathy to the old man, who is a kind of monomaniac upon this subject, his report was printed and took the usual course of legislation. Two articles reported, prohibiting all licenses to peddlers and grocery keepers, and to establish perfect free trade to prohibit all inspection laws, etc., were almost unanimously rejected.

The article to abolish capital punishment was taken up and discussed in committee of the whole, and passed by the unparalleled vote of 61 to 11. But I regret that on the final passage in the convention it was deemed inexpedient to put such an article in the constitution, and the subject is left for future legislation. The vote taken in committee was the true expression of the sense of the convention, and the same vote would have been given on the final passage, if we had a penitentiary. I am rejoiced to find that the day of legal butchery is near its close in Wisconsin. \* \* \*

Yours, etc.,

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[November 27, 1846]

MADISON, November 22, 1846

FRIEND MARSH: I intended to have written you last week a good account of the progress of the constitutional convention and at the beginning of the week thought I could do so consistent with truth, but all my anticipations have been sadly disappointed. The ill feeling existing in the two divisions of the Democracy daily becomes more bitter and excitable. As the party now stands, there is a majority opposed to the bank article, and the opposition is daily gaining strength. There is scarcely a man east of this but strongly condemns the whole or some of the provisions. The truth is the Locos have placed the restrictions in the wrong place—upon the people instead of the legislature. The sixth section, prohibiting the circulation, the giving or receiving of bank notes (issued without this state) in payment of debts, etc., is a provision tyrannical and so obnoxious to the people that it must inevitably remain a dead letter. The people say what right has the convention to prevent them from receiving what they please to take in exchange for their produce? Or to make the payment of a debt in specie-paying bank notes a void transaction? They say they do not want a bank, but they condemn the Democrats for distrusting the people and endeavoring to prescribe what the people may do and what the people shall not do.

Scarce a member returns but brings the same accounts of great dissatisfaction among the people at the proceedings here. News-



papers all over the Union ridicule the radicalism of the Democracy of Wisconsin.

On Friday Hicks called up his motion of a previous day to reconsider the bank article. He did it at the secret instigation of Moses, who took this method to put a final clincher upon the article. A call of the house was ordered, and after all the members not excused were reported in attendance by the sergeant at arms, the vote was taken by ayes and noes and lost—ayes 53—noes 53. The motion was untimely—without any concert with those who wished the matter put in shape in accordance with the wishes of the people and during the absence of some half dozen who were dissatisfied with the article as it now stands. In the morning, before Hicks called up his motion to reconsider, he submitted a proposition to establish a general banking law whenever such a law should be approved by a majority of the voters of the state. This proposition received but some twenty votes. When the vote upon the reconsideration of the bank article was announced there was a very violent outbreak of indignation on the part of the Young Democracy and exultation on the part of the Old Hunkers. Motions to adjourn sine die—cries of “We might as well go home—the constitution will be rejected—the people will never consent to be slaves,” and such like expressions ran through the house. All was disorder and confusion, and in a state of high excitement the convention adjourned till afternoon.

Hicks' course in reference to this article as well as in reference to the suffrage question is perfectly inexplicable. While the article relating to the executive of the state was under consideration he moved as an amendment to strike out the word “citizen” and insert “elector”—so as to make unnaturalized foreigners eligible to the highest office in the state.

The afternoon of Friday and all of Saturday was spent in the discussion of an amendment to the reported article upon the judiciary—providing that the several judges of the circuit courts should be judges of the supreme court, i. e., avoiding the necessity of a separate supreme court. Marshall M. Strong, Tweedy, Ryan, H. Barber, and others supported the amendment by able arguments. The amendment was opposed by General Smith, Baker, and Dr. Judd. No vote has yet been taken on the amendment; it is to be hoped the amendment may prevail. A separate supreme court would be a useless tax upon the people of some five or six thousand dollars; the supreme court would not be engaged more than from

three to five weeks in the year; and if well-read lawyers when they went upon the bench, they would soon become mere parchment lawyers and be inferior in the application of legal principles to the business affairs of life to the circuit judges who are by necessity led to the constant application of theory to practice. As well might a person become a great chemist by reading, without going into the laboratory and experimenting, as become a good judge without trying cases at nisi prius. All of the great judges of the Supreme Court of the United States and of England and of the several states have been made such by their experience in the lower courts.

There yet remains to be disposed of before adjournment the article relating to the judiciary—to common schools—to boundaries—to eminent domain—exemption of property from forced sale—to the legislature—and several other minor matters. It is now evident that the convention will not adjourn on the first of December, the time heretofore fixed. When the adjournment will be is yet very doubtful, and I much fear that my prediction of spending the holidays at Madison will prove too true.

On Friday, after the failure of the motion to reconsider the bank article, nearly one-half of the convention thought of separating from the ultras and adopting a constitution on their own hook and submitting it to the people to be voted upon. I understand some few have already separated from the convention and are now occupied in drafting a constitution. What think the people of such doings?

Be not surprised if the Democrats (save the mark), fearing to test the will of the people upon the constitution, send it to Congress before a submission to the vote of the people. I know many of the leaders are already determined upon such a course, and little doubt that such will be the result of this convention.

Yours, etc.,

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[December 11, 1846]

MADISON, December 4, 1846

FRIEND MARSH: The time set for adjournment of the convention you will perceive from the date of this letter has already passed, and yet the convention is quarreling its way along as slow as a snail. The article in relation to schools has finally passed since I wrote you last; as originally reported in the fourth section it provided that

“no book of religious doctrine or belief and no sectarian instruction shall be used or permitted in any public school.” This provision, if it had been adopted, would not only have prohibited the placing of a Bible in a school, but even prevented the reading of Christ’s Sermon on the Mount in any public school (for this sermon is only religious doctrine) and would have excluded every school book used as a reading book, with which I am acquainted. On recurring to my schoolboy days, I well recollect in every reading book some glowing passage taken from the Bible. A beautiful commentary this upon the religious freedom which this convention or a portion of this convention would allow to this people. The above quoted words were however stricken out after some discussion in the convention. As finally amended and passed and likely to appear in the constitution it has some strange provisions. The fifth section requires the legislature to provide “for the establishment of libraries, one at least in each town, and the money which shall be paid as an equivalent for exemption from military duty and the clear proceeds of all fines assessed in the several counties for any breach of the penal laws shall be exclusively appropriated to the support of said libraries.”

I asked the chairman of the committee, who reported the bill, what signification the committee intended by the words “clear proceeds of all fines”—whether the net proceeds of each prosecution or the annual proceeds of criminal prosecutions after deducting therefrom all expenses of the successful and unsuccessful prosecutions during the year—and learned that the committee intended to appropriate all fines collected to the support of libraries. This appropriation of the proceeds of collections under penal laws will, yearly, after the adoption of the constitution, increase the taxes to be paid by the people of Grant \$1,500 or \$2,000.

The only way work upon roads is ever enforced is by fine—yet every man might pay his fine, and the increase of our library would be the only consequence. Corporations collect fines and usually appropriate them in paying the expenses of the corporation, but under the constitution all fines collected in the county, no matter for what reason imposed, only go to swell the town libraries. Now where our laws impose a duty on a citizen, the fines collected for neglect of that duty are usually applied to pay others for the performance of that service which the person convicted has neglected to perform.

The article requires that there shall be raised for each school district a sum at least equal to \$1.50 for each child of from four to sixteen years of age. The number of scholars was about 2,200,



and under this school article our school tax will be nearly doubled the first year. This increase of school tax of about \$1,500, increase of the expense of criminal prosecutions, by appropriating the fines to the support of libraries instead of the payment of the expenses of criminal prosecutions—say \$1,500 more—and then the additional tax which the county will have to raise towards the support of the state government of at least \$4,000, and we have to begin with an increase of taxation of \$7,000 per year.

But we shall have also to add to this the expense of holding our courts, hitherto paid by the United States—some \$1,200.

I do not hesitate to say that if the taxes are equal to the expenses required yearly under the constitution, that Grant County will have to submit to a tax at least \$8,000 greater, annually, than any previous tax.

In some future letter I will endeavor to ascertain the certain and probable expenses, under the state government, which will fall upon the people of Grant.

Yours,

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MADISON, December 6, 1846

FRIEND MARSH: I believe that I omitted in my last to inform you that the negro suffrage question had been finally acted upon by the convention. It was the intent of the Tadpoles to have had the constitution abolish all political distinctions between the black and the white man as a retaliation upon the Hunkers for the bank article; but not being quite able for this, they have made the question of negro suffrage a separate article of the constitution, to be submitted to a vote of the people. They have also made negroes eligible to every office in the state except that of governor and lieutenant governor, and permitted them to sit as judges over the lives of white men, and as lawyers to prosecute them to the death.

For the last three days the article in reference to the exemption of property and to protect the property of married women has been under consideration. The article has been ordered to be engrossed for the final passage after the rejection of at least an hundred amendments, and the adoption of one offered by Noggle of Rock, which will doubtless prevail. At present, and as the matter will appear in the constitution, the article exempts from all liability from any debts or contracts entered into after the adoption of this constitution forty acres of land—no matter how great the value—or city and town lots to the amount of—dollars.



A man may have exempt from his creditors forty acres of land, with mills, buildings, and improvements worth \$100,000 or mineral lands worth perhaps equally as much, and the washerwoman or the tailor cannot enforce payment of their little debts to save themselves from starvation. Exemption to be tolerated must be equal, but under this constitution the exemption is placed upon a sliding scale and becomes higher and higher in proportion to the wealth of the person to be protected. The knave may obtain goods or money upon credit to ever so great an amount, purchase therewith forty acres of land, build upon it his lordly halls and even a large town, and tell his creditors to whistle for their pay! Verily this is an age of progress. The whole scheme was gotten up by a set of demagogues and bankrupts or knaves.

Not even Texas, filled with the scapegraces of all nations, could adopt a swindling scheme so enormous. The Texas constitution provides that the legislature shall have power to exempt, etc., leaving it in the power of the legislature to fix restrictions and guards to prevent all kinds of swindling by means of the exemptions or to repeal the laws at any time. But here we have a settled policy—unchangeable—to protect the knave and the swindler in his dishonesty. While the nabob will be protected in the possession of an hundred thousand against his poor but honest creditor, the poor farmer with a large family, and dependent upon him, will have protected from the grasp of this nabob only his forty acres, with the improvements, worth probably \$200.

The article is singular in another feature. Real estate is the thing to be exempted by it. The mechanic or the miner will not have his tools exempted, while the wealthy man will have everything that he can attach to the realty on a space of forty acres.

As the article was originally reported it exempted one hundred and sixty acres and everything that could be thereto attached from even taxation and liabilities for payment of costs and fines for crimes committed by the owner. In justice to the Old Hunkers I ought to say that they generally throughout opposed the whole article, and that the above is a small specimen of what the "Progressive" or "Young" Democracy will do whenever they have the power. But taking the Hunkers and Tadpoles "a' the gither, they're an unco squad." There were many men whose honesty I would not question, who voted for the article, but attribute their action to want of reflection as to the consequences. Many supported it on the ground that whatever might be the morality or right thereof, that

there were more rascals than honest men in the community—more debtors than creditors—and that it would bring to the constitution favor among the people.

I think I predicted in a former letter that this “Democratic convention” would send the constitution to Congress for acceptance before submitting it to the people—that such will be the course I have no room for doubt. What think ye the farmers and miners of Grant will say to this attempt to deprive them of a judgment upon the doings of this convention, and to force upon them a constitution to legalize swindling to all time to come?

I have not said the title of what I ought or wished to say and shall defer until you hear again from

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PART II POPULAR DISCUSSION DURING  
THE CONVENTION





## SELECTIONS FROM THE MADISON *WISCONSIN DEMOCRAT*

### THE CONVENTION

[October 17, 1846]

The standing committees that were appointed at the commencement of the convention are diligently at work. Several of the committees have already reported, and these reports are now being discussed in the committee of the whole and in the convention. Many of the most important subjects that were so referred have not as yet been brought before the public; among them, the subject of the organization of our courts, and the mode of creation and tenure of the judiciary, and several other topics of almost equal interest. We, in common with the whole people, await with anxiety the result of the deliberations of the judiciary committee. It embodies some of the best talent of the convention, and we look to them for such a provision upon this subject as will meet with the well-known wishes of their entire constituency. Whatever may be the isolated views of gentlemen in the convention upon this point, we hazard not to state our opinion, that an immense majority of the entire yeomanry of Wisconsin entertain the reasonable doctrine of retaining all power within their own hands and of exercising that right as to them may seem meet. In this particular region we are satisfied that an article in favor of the election of all officers will be made a *sine qua non* by the people in their votes upon a constitution submitted to them for approval. It is not for us at this time to suggest reasons in favor of this progressive measure. Prior to the canvass for delegates we advocated it as an open question. It would now be a work of supererogation for us to favor that which the electors have determined for themselves. The convention understand that well, and we rest content that a majority of their delegates will not in any wise misrepresent them.

### POPULAR ELECTION OF JUDGES

[October 31, 1846]

We feel gratified in being able to assure our readers that since the able report of the majority of the judiciary committee, favorable to the election of judges, has been made to the convention all serious

opposition to this progressive measure has ceased. True it is, that a few of the would-be leaders keep up a show of fight in favor of the Old Hunker mode of appointment, yet they meet with neither encouragement nor favor from the majority of the whole body. Some of those who at the commencement of the session were opponents are now open, honest friends of this our favorite measure; while many others through policy will not darken their own political prospects nor attempt to thwart the known will of the people and endanger the adoption of the constitution by voting against submitting the election of judges to the entire constituency of the state. Yet are the people mainly indebted for their success in the number that composes the convention—a small body of forty men would have been so arranged that not ten friends of this provision would have had seats. Making the representation so large, it was impossible to keep a majority of new men out of the body—and every reader knows that upon this question the almost entire rank and file of the party are with us, and as the convention is now composed the people are truly represented. We feel sufficiently compensated in being able to announce the certain success of this article to forget the personal opposition we have met with in our humble advocacy of its provisions. The battle between the people and their dictators is surely won, and as in war so in politics victors should be magnanimous, finding sufficient cause for self-gratulation in their success.

Although straitened for room we cannot fail to call public attention to the majority report as made by Mr. Baker of Walworth. It presents the views of progressive Democracy fairly—is cogent and forcible, and far from being an “ad captandum” argument as urged by the enemies of progression. It should be scattered broadcast among the people that they may see and know the sure footing they stand upon in contending for this principle. The honorable gentleman has done himself and the rights of the people full justice in his argument, and the vote of the convention directing that the unusual number of one thousand copies be printed is equally complimentary to Mr. Baker and to the majority of the committee.

#### THE EXEMPTION

[October 31, 1846]

The committee on bill of rights, by George B. Smith Esq., chairman, have recommended for the consideration of the convention a provision exempting from execution or forced sale the homestead of every settler in the state. We would suggest the propriety of our

friends in different sections of the territory making their will known during the next week either by petition or otherwise to their delegates, that they may know to a small extent what the public opinion is upon this subject. Some petitions have been received, and we doubt not that if the will of every man, woman, and child from the Lake to the River could be heard, it would sound as the voice of strong men compared to an infant's cry, and would strike as a death knell upon the ear of the cold-hearted oppressor. From the very nature and fitness of things we know that we cannot misrepresent the popular will on this point; and such is the strong universal sentiment in its favor in this region of country that, however obnoxious the constitution may be made upon other points, we do not doubt that a homestead exemption and an elective judiciary will carry it by an almost unanimous vote over any opposition arising from other provisions in the fundamental law that may be submitted to them for approval.

#### CAPITAL PUNISHMENT

[November 14, 1846]

Notwithstanding there is a decided majority in the convention opposed to capital punishment, as proved by the spontaneous vote of its members a few days since, yet have the enemies of the proposed innovation (to substitute imprisonment for life without the hope of pardon) succeeded in defeating this humane proposition. The ground urged by the friends of capital punishment was that the whole question had better be submitted to the legislature for their action, and in this way many warm advocates of perpetual imprisonment in lieu of a death penalty were induced yesterday to vote down the amendment of Mr. Chase of Fond du Lac. We sincerely regret that in this we must differ from many of our friends. We believe the subject of the abolition of capital punishment is of such great interest and has been so much considered of by the great body of the people, and their views are so well known to be favorable to its entire repeal, that it was the duty of the delegates to have given the popular view upon this subject a constitutional perpetuity. When the state legislature assembles and this measure is advanced it will be promptly met with the reply that it was the duty of the convention to have engrafted the provision in the constitution, and their declining to notice the measure favorably will be used as an argument against even making it the subject of legislative enactment, and thus the principle will be kept suspended just as long as



the friends of capital punishment can do it. We believe the people fully understand this question in all its bearings, and they can vote more advisedly upon this proposition than upon many others that may be submitted to them for their endorsement, and so far from hazarding the adoption of the constitution by the people it will rally numerous friends to its support that would otherwise be disaffected towards the whole instrument. We should like this question to be presented in some shape for popular consideration that the friends of the old Levitical code may be satisfied that the majority of the "dear people" believe that they are not living under the Jewish dispensation, but that a better covenant has been given to fallen man, in which the great principles of justice and mercy are harmoniously blended. The Scribes and Pharisees of old could prate learnedly and sustain their position by quotations from Holy Writ, but we have yet to learn that they were on this account deemed better depositories of public trust, and from this wise more favorable to the extension of the rights or liberties of the people. A gentleman that presents his views in favor of capital punishment on the score of political expediency is entitled to the consideration of an honorable disputant, for in this respect only should the question be presented. But he who is so far behind the age and its benignant spirit as to be compelled to rely upon the mere police regulation of the Mosaic Law as a justification for his course has great reason to rejoice that this code has been so religiously preserved, if only to allow unchanging authority for the Solons of the present day. We have no patience with this canting reference, as if the circumstances that caused the rules to be laid down for the journey of the Israelites now exist or the laws are applicable to us; they might with the same propriety contend that we should return to the wandering life as pursued in the days of Abraham, if we are to go it blind on the strength of Scripture authority. Such blind guides would lead us back to Judaism, forgetting the advent of Him whose mission was to teach us the softening influences of true religion as compared with the rigor of the olden law.

#### GERMAN OPPOSITION TO THE SUFFRAGE ARTICLE

[November 28, 1846]

The petitions that have been sent into the convention from the German and other foreign-born citizens in different parts of the territory evince a strong opposition to the suffrage article, as it was agreed upon by that body, with a feeling that cannot but operate



against the adoption of the constitution, unless their wishes in this particular are consulted and their objections removed.

They allege with reason that all foreigners who were resident in the territory six months before the late election and declared their intentions to renounce their old allegiance and become citizens of the United States become qualified to vote, and in consequence of their compliance with the provisions of that law did deposit their ballots for delegates to the convention, are now represented in that body, and through these agents are engaged in framing the constitution.

To the above reasonable provision of the legislature they did not object, but cheerfully complied with its requirements; but their objection now arises, and they properly insist that the article in question requiring those men who aided in the formation of a state constitution by first voting on the question of state government and then upon the selection of delegates is unequal in its operation in making it obligatory upon them to take an additional oath, this provision of swearing to support the constitution being addressed solely to the foreign-born citizens. We see no good reason why this extra oath should have been required or the convention should now insist upon retaining it.

In Michigan, as everybody knows, all persons who were residents in the state at the time of the adoption of her constitution were de facto made citizens of the state, and now exercise all the rights and privileges as such. Congress admitted that state with this constitutional provision therein inserted, after full debate, and we know of no good reason why we should restrict our people in the enjoyment of any privilege that Congress will sanction.

'Tis proper, we hold, that in the case of emigrants from foreign lands who may come to settle among us after we are introduced into the family councils of the nation and organized as a sovereign state that they should be required to take an absolute oath of allegiance to support the constitution in the formation of which they had no lot nor interest. But those who have identified themselves with us under our territorial government and have complied with all that the legislature deemed necessary to enable them to make a constitution have good reason to object that, notwithstanding their known attachment to our country and its free institutions, they should be taxed to make another acknowledgment of their sincerity before they can vote upon the question of approving a constitution that they themselves, through their delegates, have made. There is a

manifest impropriety not to say inconsistency in this, that we hope may be modified into a more just and reasonable shape.

### THE JUDICIARY

[December 5, 1846]

The article on the judiciary has finally passed the convention with the main features of the original report sustained with the exception of a separate supreme court. The extra expense was the principal objection to this feature. The election of the judges by the people was tested and sustained by a large majority, as will be seen by our reports, though some of the best—we may say the very best—talent of the convention was arrayed against it. Mr. Ryan of Racine, an able and eloquent debater, brought to bear upon it the full powers of his logical and comprehensive mind, and he was seconded by Mr. Tweedy of Milwaukee with more than his usual great ability. The appointing system lost nothing for want of able advocacy, and its evident unpopularity and the hopelessness with which it was urged leaves no doubt of the honesty of purpose of those who espoused that side of the question. We rejoice at the success of this measure not so much because we believe that the judiciary system will be materially improved by it at present, as all changes are liable to evils, as because it evinces a growing jealousy of consolidated power and progress towards the radical principles of democracy, which secure it to its legitimate source in the hands of the many instead of the few. As far as this can be done with security to individual rights we hope to see it asserted and maintained, and then we will have no fears for the perpetuity of our institutions and the public safety.

### ARGUMENTS AGAINST CAPITAL PUNISHMENT

[December 5, 1846]

(A letter to the Hon. William Berry, delegate to the convention)

RACINE, November 10, 1846

DEAR SIR—Having enjoyed a somewhat long and intimate acquaintance with yourself, I take the liberty of addressing you in this manner upon a subject of to my mind very great importance, and in behalf of a righteous and much needed reform. And I have every assurance that when I ask that this subject may receive a serious and candid consideration from you I shall ask not in vain.

The idea of reform is a legitimate idea. Man was created for progress. It was not designed that he should walk always in the same old paths and adhere to the same old customs and laws and institutions. There is a voice whispering it within his soul that he is to know more and be more today than he was yesterday—that there is a greater good for him lying just beyond his reach, and glorious yet unrevealed, which at a few steps more up the ascent will burst upon his vision. And it is because of this that we see man struggling and battling with the evils which surround him and ever looking forward through the long night of watching and tears for the dawning of a brighter day. Man, then, was made for progress—progress ever upward, onward, developing “by labor, by battle, by prayer, and ever growing intelligence and a boundless love.”

Now, the idea of advancement—improvement—presupposes that there is to be a taking down and rebuilding, and that the institutions and customs and opinions and laws of one age are not necessarily to be received and adopted in a succeeding age. The principle upon which all true and righteous reform is based is thus laid down in the divine religion of Jesus Christ: “Prove all things—hold fast that which is good.” Bring existing institutions, customs, laws, to test—try them in every way you will—and hold fast to that which is good, while you cast all else away as a hindrance in the path of human progress. I know very well what will be said—what is said—of the man who occupies reform ground—that he is an innovator upon the public peace and public good—that he is endangering society and the government. Amazing folly is this! As though we could not abandon the outward and look for eternal principles. As though we could not lay hold upon old errors and wrongs and put them away! As though we could not deviate from the old beaten paths and make certain advancement without sacrificing truth and righteousness and the real good of society and the state! The idea is too irrational and absurd for a full grown man to entertain. He who entertains it has not regarded the law written of God upon every human soul nor listened to the voice which pleads for progress within him. Great and good men all over our land are standing up shoulder to shoulder and uttering their mild yet determined remonstrances against the cruel and bloody law authorizing capital punishment. Of these are Hon. Geo. M. Dallas, vice president of the United States; Hon. John Quincy Adams; Vice Chancellor M’Coun of New York; ex-Governor Seward; Robert Rantoul of Boston; J. L. O’Sullivan; Governor Steele of New Hampshire; and a host of others eminent as lawyers, as divines, and as statesmen.



And these are not men of morbid sympathies—the apologists of crime and the advocates of unrestrained violence and wrong. They are not men who are carried away by mere abstractions and who have no higher aim than the invention of ingenious legal sophisms or who would interpose between society and a righteous redress of its wrongs and grievances. But they are men of powerful intellects, big hearts, acute moral sensibilities, and are governed less by the opinions of the world than by the divine lessons of Jesus and his holy religion.

The right of human governments to take life or to punish capitally is questioned—denied. “The power over human life,” says Dr. Rush, “is the sole prerogative of Him who gave it. Human laws, therefore, are in rebellion against this prerogative when they transfer it to human hands.” There is a sacredness attached to life that ought to be inviolable—men should be taught so to regard it, and governments should beware how they take from this sacredness by any laws or acts of their own.

It may be true, as is sometimes contended, that man by entering into society yields to the contract a portion of his natural rights. Admit that he does; it will be granted, I presume, that he can yield no right that he does not possess. Now, has man the natural right to take away his own life? Has the right been conferred on him by his Creator to deprive himself of existence whenever he may will to do it? Then is suicide no crime. But man has not the free disposal of his life—he is not the absolute owner of it, but holds it only as a tenant at will—not of society—not of human governments—but of that Being who gave it and who alone has the right to take back this gift in his own time. Man may not, therefore, yield up his life until God calls for it. He has no right to bargain with society that for certain acts he shall be taken and killed; and society has no right to demand such a forfeit. “Such a contract if executed would involve the one party in the guilt of suicide and the other in the guilt of murder.”

I am aware of the claim that the Bible authorizes and sanctions the taking of life for life—that human governments are divinely empowered to shed the blood of the murderer. I hope it will not be deemed out of the way in one so humble as myself if I question the truth of this. I cannot believe that the sovereign God would issue a solemn command, eternally binding on individuals and governments, saying, “Thou shalt not kill!” and yet give a law to stand unrepealed and in force forever, authorizing the taking of human



life and the shedding of human blood. There is only a single passage, I believe, that would seem to favor this idea, and upon it the chief reliance of the advocates of capital punishment is placed. "Whoso sheddeth man's blood, by man shall his blood be shed: for in the image of God made he man."—Gen. 9-6. To those acquainted with the Hebrew language it is unnecessary to say that this passage in our English version of the Bible is incorrectly translated, and thereby brought into conflict with its connection. It reads in the original as follows: Shopeoh Dam Haadam baadam Damoh jeshapheoh—the correct translation of which is, "Whosoever (or whatsoever) sheddeth man's blood, among men his (or its) blood will be shed." The word "Baadam" signifies "in or among men"; and the word rendered "shall be shed" stands in the future absolute and not imperfect mood, and can only be rendered "will be shed." The passage is thus in its isolate state presented to us as a prediction from on high, meaning that "bloody and deceitful men shall not live out half their days"—a great retributive fact in nature and the overruling providence of God. To accord with its connection the passage is rendered as follows: "Whatsoever sheddeth man's blood, among men its blood will be shed; for in the image of God made he man." The translation is sustained by the authority of the best Hebrew scholars—Calvin, LeClerc, Michales, Upham, etc., and most clearly is it sustained by the preceding passages: "And surely your blood of your lives will I require; at the hand of every beast will I require it; at the hand of man, at the hand of every man's brother will I require the life of man. Whatsoever sheddeth man's blood, among men will its blood be shed; for in the image of God made he man."

The whole meaning and intent of the covenant with Noah is now before us; and there is now no conflict between any portions of it. The blood of the beast shedding man's blood man might shed; but there is no warrant for the taking of human life. For we read: "At the hand of every man's brother will I"—not shall man—not shall a court of justice—not shall human magistrates—not shall human governments—but "will I (God) require the life of man." The penalty here is not with man, nor with any human tribunal, but with God. The idea that the whole covenant seems to convey, so far as it relates to this subject, is simply this: The principle of life has a mysterious sanctity, even in the beast. But man has a high distinction from the brute. He has not only the principle of life in him, but he is made in the image of God. Man, then, is not to violate the principle of life in the beast, for even there

it is sacred. But the beast violating it in man shall die by the hand of man; and man violating it in his brother man shall render an account to God; for in the case of man's murder, not only is the principle of life violated, but the image of God is desecrated.

On this view of the subject how well the improved translation agrees with the whole connection; and how appropriate and forcible the reason now—"for in the image of God made he man." Man has the preëminence—human life is sacred and is not to be violated, for its violation is a desecration of the image of God. To say that because a man has violated the sacred principle of life in his brother by taking it away therefore God has authorized and commanded human governments to do the same thing, giving as a reason that in his own image he made man, is to charge him with more than human folly.

Where then in the Bible do we find a sanction for capital punishment? In the Mosaic code? But that is no authority for us, for in the language of a great apostle of Christianity "we are not under the law, but under grace." The whole of this ancient code was swept away by the introduction of a new and more perfect system. And in this system the law of retaliation—an eye for an eye, and a tooth for a tooth—is forever abrogated. "Avenge not yourself," says the divine Christian law—"Be not overcome of evil, but overcome evil with good."

I do not know that I ever heard an advocate of capital punishment appeal to Christianity for a sanction on its behalf. He can find no warrant there for it—it is only left him to flee to the shadows and darkness of the old legal dispensation, and to come down tremblingly at the foot of the Mount that burned. He had no refuge, no stronghold at the cross of the Crucified. The grand central point of the gospel is love to the guilty—this principle the only one upon which individuals and governments are bade to act—and is to find an embodiment in the life of the one and the laws and punishments of the other. But though there be no divine sanction and no divine authority for capital punishment, may not its abolition be a dangerous experiment to try? There are many—there will be many to think so. They will fear and shake their heads in doubt and say that it will be unsafe. I will not blame such—I will not say a hard word of them—they do not see because they have not the light; they will see and rejoice when the light shines unto them. I believe I have looked at this great subject in all its bearings—in its minutest details, pro and contra—and I have desired only one

thing—that is—truth. And in my own mind I am satisfied that the abolition of a revengeful and bloody law would be safe, and more than safe—that it would be attended with most blessed results.

The tendencies and effects of capital punishment are not, evidently, what are claimed for it. Whatever may have been its adaptation to a less enlightened and Christian age, it most certainly has no adaptation to the present condition of society. It is revengeful and therefore wanting in moral power; its effects are injurious viewed under whatever aspect. Society is to be protected; but are the gibbet and the executioner the means we would appoint for its protection? Is society any more safe when we have taken a poor unfortunate fellow being from his prison cell and murdered him in cold blood than it was before? Men may say that the murderer ought to die; they may cry out "Hang him!" And with the feeling and spirit which here find utterance they may take the man whom they have already secured from the commission of further violence and strangle him to death; and they may think that they have rendered society more safe—more secure. But the truth is that they have been taking from its defenses—that they have lessened in the eyes of hundreds the crime of taking away human life and imparted a first lesson in blood, perhaps, to some desperate character at the foot of the scaffold. There is a multitude of facts—and every man's experience will furnish him with a multitude more—going to show that the effects of capital punishment are demoralizing in the extreme. We are told by the Rev. Mr. Roberts of Bristol, England, that he conversed with one hundred and sixty-seven convicts under sentence of death, one hundred and sixty-four of whom had witnessed executions. This one fact alone annihilates the doctrine that capital punishment is of good moral tendency and holds up the great truth for the world to read—that executions harden and demoralize the hearts of men. \* \* \*

We are led to conclude that killing by law is a most unsafe and dangerous business. It does no good, but is productive of much evil. "As the punishment and the terror of such doings," says Mr. Child, "they fall most keenly on the best hearts in the community. \* \* \* Executions always excite a universal shudder among the innocent, the humane, and the wise-hearted. It is the voice of God, crying aloud within us against the wickedness of this savage custom. Else why is it that the instinct is so universal?"

Capital punishment is most unsafe in another point of view. The innocent may fall its victims and there is no remedy. The



awful deed is done, and all proof of innocence, however strong, however clear, comes too late. Truth may utter in the ears of the world her verdict, "not guilty," but the gallows has done its work; the grave holds the body of him who died as a felon and she cannot call him back to life.

The results of the abolition of capital punishment have been tested by actual experiment. I am enabled, therefore, to speak confidently when I say that the abolition of the gallows would be safe. Suffer me to call your attention to a few facts. More than a century ago the death penalty was removed from the penal code of Russia by an edict of the Empress Elizabeth. The immediate result may be judged of by the language of her successor, Catherine, who said: "The twenty years' reign of the Empress Elizabeth gave the fathers of the nation a more excellent pattern than that of all the pomps of war, victory, and devastation." And so well convinced was Catherine of the wisdom of the policy which governed her predecessor on the imperial throne that she adopted it in her new code of laws. Since then but two executions have taken place, both for rebellion against the government. The whole experiment, which has been making for a hundred years, is entirely satisfactory. The entire safety of the abolition is clearly and convincingly demonstrated, and none think of returning to the death punishment. In 1791 it was said by Count de Segne to be one of those countries in which the fewest murders were committed; and the evident reason may be found in this saying of Catherine: "We must punish crime without imitating it; the punishment of death is rarely anything but a useless barbarity." It has been said that the abolition of capital punishment in Russia is a deception. But a Russian in this country recently declared through the *Boston Atlas* that it was real, absolute—it is "clean gone forever." The honorable Vice President of the United States, late Minister to the Imperial Court, speaking from his own observation and the testimony of jurists, statesmen, etc., confirms the most favorable accounts which have been given of the happy results of the abolition and the general satisfaction with which the present system is regarded there. None with whom he conversed even dreamed of going back to the old system. The laws, he adds, are of the mildest character, and their effects are seen in the character of the people. Barbarous as they were before the mitigation of their criminal code, its mildness has wrought such a change that they are now "the mildest and most peaceable people he has ever seen."



The experiment has been tried in Belgium and has demonstrated how safe and beneficial is the abolition of capital punishment. The superintendent of a prison in that country stated to Joseph Hume of the British Parliament in 1837 that from his own experience the measure (the substitution of imprisonment for hanging) tended greatly to soften the disposition of the mass of the people. It appears from an official table in my possession that as executions decreased capital crime diminished; for when the executions were forty-seven a year there were over seventy capital convictions, but in 1834 when there were no executions the sum total of the capital convictions was less than nine, of which four only were for murder. The Inspector General of the prisons in Belgium gave as his testimony, "that the punishment of death is useless, unfit as a means of prevention, the object of general and growing repugnance, and can be replaced by safeguards more efficacious."

Tuscany is another of those countries where the experiment of the entire abolition of the death penalty has been tried. To show what was the result I quote from an eminent writer: "In 1765 the punishment of death was abolished in Tuscany, imprisonment at hard labor for life taking its place. The result was as the Grand Duke Leopold testifies in an edict issued twenty-one years afterward that instead of increasing the number of crimes it considerably diminished that of the smaller ones and rendered those of an atrocious nature very rare. \* \* \* Even our own country, whose moral and religious character we are wont to regard as so superior to that of any European and [which] presents a striking contrast to Tuscany at the period we are noticing—Massachusetts and New Hampshire have together but two-thirds as many people as Tuscany; yet in less than five months after Barret was hanged at Worcester last winter the murders in those states were three-fifths as many as in Tuscany during twenty years. So were they, too, within two months after Eager's execution in New York City and a territory around it not larger than Tuscany, with not one-fourth as many inhabitants. Pennsylvania had four-fifths as many in seven weeks after Zephon's execution, though its population is about the same as that of Tuscany. That is, in proportion to time and population the murders in Massachusetts and New Hampshire were eighty times as numerous as in Tuscany; in Pennsylvania, one hundred and twenty; and in New York City and vicinity three hundred times as numerous. The Marquis of Pastoret says the happy effect of abolishing the death punishment in Tuscany was a fact so fully recognized

when he wrote (in 1790) that he could not think of seeking means of proving what no one thought of disputing. While he lived in that country he often heard the people praise 'the mildness of their laws, and the efficacious influence it had in diminishing the number of crimes.' Count Sellon of Geneva remarks upon this statement that it 'corresponds with those of all the travelers who go abroad to acquire knowledge, and is confirmed by Professor Pietet in his letters from Florence.' M. Berlinghieri, late minister of Tuscany at Paris, says that the humanity of Leopold's penal legislation 'was attended with the most satisfactory results. \* \* \* Crimes of all kinds were much more rare during that period than either before or after.' And Carmignani, a distinguished professor of criminal law in the University of Pisa, bears a like testimony to the good results of the measure."

The abolition of the death punishment, then, is safe—more than safe—by actual experiment. Crimes have not increased, but decreased, and the dispositions of the mass of the people have been softened.

There is one single fact more touching this point that I would refer you to. We are told by Sir John Ross, the English navigator, that among the Eskimos the crime of murder rarely occurs, and among them there is no capital punishment—no gallows—no executioner. It is a prime doctrine with them, and it is worthy of the serious consideration of Christian men, that to kill the murderer would be to make themselves as bad as he. Now if lawful killing is not necessary among so savage and unenlightened a people to refrain from crime, if murder is rarely committed among them though they have not the example of the gibbet and the halter and the strangling to death of a human being, is such killing necessary among an enlightened and professedly Christian people? And do they need the restraining (!) example of a fellow man choking to death like a dog upon the scaffold, in order to make them law-loving and mild and peaceable citizens? I would blush for him who would say this. I would blush for the land that gave him birth.

I will not longer trespass upon your patience. I have written to this length because I had not time to say less; and I would fain say more. As I have proceeded, reasons and arguments have accumulated upon my mind, and I find it difficult to reach a point at which I would wish to leave this subject. The operations of your own mind, your own moral perceptions, and your long experience will readily supply what I have left unwritten.

In conclusion, my dear sir, one word. Should the subject of capital punishment be brought before the convention of which you are a member, may not I—may not the friends of this great reform—hope to find your influence exerted in its behalf and your voice raised in its defense? For this you will deserve and receive the thanks of the great and good, and it will be a blessed thought in after days that you helped blot out from the statute books of our land a most cruel and bloody law and to present to a new state a constitution unpolluted and undefiled by so vile a stain as that of capital punishment.

I am, sir, with the greatest respect,

Yours, in the work of reform,

JEFFERSON

### THE EXEMPTION ARTICLE

[December 12, 1846]

An article has been adopted by the convention exempting from execution or forced sale forty acres of land with the improvements or in lieu thereof a town or city lot not exceeding \$1000 in value.

Every one to his notion, but we regard this as the most outrageous act ever passed by a legislative body—in this country at least; the bankrupt act of 1841 cannot hold a candle to it. We shall take the liberty hereafter to discuss this article with perfect freedom, and we shall do it with the more freedom as attempts to argue against it were stamped down in the convention.

From the above, which we transfer from the *Argus*, our readers will see that it is out in full blast upon the homestead exemption. Knowing as we do the organization of its editor our friends may seem surprised that we should marvel at its peculiar course. We admit with them that he is a proper representative of the Old Hunker feeling which in New York and elsewhere contended only for the interest of the creditor by placing the unfortunate debtor upon "the limits," or by confining him in prison, and hunting him as if he were a criminal worthy a felon's fate. Such abstractionists compose a regular genus, and the portraiture of Shakespeare's fancy is as applicable to modern Shylock's as the character which his inimitable pen has immortalized—

I'll have my bond; speak not against my bond;  
I have sworn an oath that I will have my bond!

But we notice the fact of the opposition of this sheet, solely to place the people of Dane "rectus in curiam" properly before the state, that their liberal feelings may not be maligned by the erratic course of a single delegate. Notwithstanding his base misrepresent-



tation on the floor of the convention (which by the way was promptly denied by a friend of liberal feelings) that the people of Dane were opposed to the doctrine of exemption, we affirm most positively that we do believe that three-fifths if not more of his entire constituency were wilfully, treacherously misrepresented in his talk and in his vote. There were no two subjects that were more agitated before the whole people of Dane than the questions of an elective judiciary and the homestead exemption. The Whigs universally favored them, both in their resolutions in their county mass convention and in the addresses of their candidates for the delegacy. And at the only two Democratic meetings that we attended in the county we know that our speakers advocated these wholesome principles and urged that the Whigs were endeavoring to steal our thunder. In this matter we speak by the card, truly, knowingly, and do not believe that over one-tenth of our people if left to themselves could be induced to oppose this humane, popular provision.

Not a single petition from the country has been sent in opposed to its requirements; those that were circulated in its favor were readily, cheerfully signed. The rest of our delegates from this county in their votes but fairly represented the known popular will; and to them and other friends, good and true, that faithfully stood by the rights of the poor man in resisting the insidious attempts that were made to destroy the article more than our praise is due. They have their reward in their own breasts, and in the warm, honest hearts of the heretofore unprotected many that will remember them in honor.

#### STRICTURES UPON MARSHALL M. STRONG

[December 12, 1846]

The *Argus* says that the bankrupt act of 1841 cannot hold a candle to the most outrageous act ever passed by a legislative body, viz., the exemption of the homestead. This must have been the reason of the late case of political suicide that occurred in the convention. One of the members <sup>10</sup> from his knowledge of the frauds perpetrated under the bankrupt bill became so indignant at the passage of the exemption article as to resign his seat, after throwing himself with a great flourish upon future times for friends and justice.

If the gentleman has any idea of deferring his chance until the people crawl upon a measure so truly republican and reasonable as this, we fancy he will have to wait some time, if not longer, for his

<sup>10</sup>Marshall M. Strong



supporters in opposition to this article in the constitution. As to justice, that will probably be administered at an earlier day. From his course it seems that one man has a perfect right to be discharged from all his liabilities "at one fell swoop." But woe to the measure that is general in its operation in benefiting all. The latter he characterizes as a fraudulent conception and as a professed Democrat contends in objecting to exemption that it will injure the credit system. That to our mind is one of its greatest beauties. "Consistency is a jewel," about these times.

SELECTIONS FROM THE MADISON *WISCONSIN ARGUS*  
THE LAST PRAYER

[October 13, 1846]

The Milwaukee *Sentinel and Gazette* is out with a long prayer imploring the convention now in session not to shut the gate upon all banks whatever, but to leave some chance for the dear creatures to live in some form. And rather than not have them live in any form, he would have them exist in a Democratic form, in an unexceptionable form—some such form as is tolerated by Democrats in the older states—any form in fact which will secure the substance.

The arguments are of the same old blue stamp which have been trumpeted by bankites for the last half century and exploded as often as there have been new movers in the course of that time. The first of these arguments used by the *Sentinel* is that “we are in want of capital for our ordinary business purposes \* \* \* Of the thousands and tens of thousands who are flocking to our territory few possess more than barely enough to provide themselves with a home-stead, or to start in the business in which they propose to embark. \* \* \* Wisconsin thus far has suffered materially for the want of sufficient business capital. For several years we have been without any bank of discount and destitute of any local currency, except what has been furnished by the Insurance Company of this city.”

The people have indeed suffered a heap for the want of such a local “currency” as was furnished by the Wisconsin bank, the Mineral Point bank, the Hydraulic bank, the Milwaukee bank that wanted to be, and if the Insurance Company should now mizzen, the people would be flat broke!

But how is a bank to increase any man’s capital? Every man can now have just as much money as he has the means to buy. How is a bank to increase his means wherewith to buy money? The banker will not give him his money, miserable stuff as it is, without an equivalent, and such an equivalent as supposes that his money is as good as specie. The argument of the bankite is that by chartering a bank the same man will become possessed of two yoke of oxen instead of one, and five pigs instead of three; else the bank would do him no good, for he would have no more means to buy money with than he had before, and buy it he must or go without it.

But the *Sentinel and Gazette* says that our citizens want to borrow money and they must have banks of their own from which to borrow. “We must remember that the question is not now bank or no bank;

but whether Wisconsin shall have moneyed institutions of her own, subject to her own supervision and control, and in which her own citizens can take an interest." Aye, gentlemen, that is the idea, and a capital one it is, too; our citizens are poor and want to borrow, and so they must have banks and lend—go to banking upon their debts—go to manufacturing capital from paper rags! Well, they have a precedent for it. Ohio has instituted an extensive state banking system, and the capital stock is the debts of the state. If debts make good banking capital, we have some amongst us who have judgments enough standing against them to enable them to go into banking again on a pretty extensive scale.

Our Whig neighbor says that he is "aware of strong prejudices existing in many quarters against banks, and as these institutions have heretofore been conducted in many of the states, these prejudices are not without good foundations." Prejudice? What is a prejudice? Why, according to our notion of the word, it is an opinion formed without evidence. An opinion, then, exists against banks, founded upon no evidence, but yet rests upon good evidence. We have repeatedly seen expansions and contractions of the currency by the agency of banks, inducing speculation, panic, and ruin in their turns, but the dread of the same consequences in future is all a "prejudice." The country has been swindled by millions through bank failures, bank suspensions, and bank frauds, but the indignation excited by this continuous train of villainies is all a "prejudice."

But, says our neighbor, "Because one banking system has been found defective or odious, does it follow that all others are necessarily and equally bad?" Not exactly; but when every banking system which has ever been devised (and they are almost without number) has proved "defective and odious," and when the immutable laws of currency and trade clearly demonstrate the utter uselessness of paper money, it does follow that the whole rotten system should be suppressed.

The *Sentinel* says that "we cannot destroy bank paper. We cannot even drive it from our borders. In spite of the most stringent laws that we can adopt, the bills of Michigan, Ohio, Indiana, Canada, and the eastern states, generally, will continue to circulate in our territory," and then he inquires whether we shall not choose the least of two evils, and have paper money of our own. Will the *Sentinel* hold his horses while we tell him that we can drive the bills of other states from our circulation, and will he be satisfied with a provision in the constitution which will do that very thing? Our

principle is: Of two evils choose neither. Just outlaw all paper money, whether of this state or any other, and the work is done.

“What then,” continues our contemporary, “will the convention do? Will they heed the testimony and profit by the experience of the older states, or will they carve out a new and untried path for themselves?” Well, they won’t do anything else. “Will they discard all moneyed institutions, thus bringing us down to the hard currency, or making us dependent upon foreign banks which are strangers to us and our interests?” Indeed that is beyond our ken. That they will exclude banking from our state is quite certain. That ball is in motion, and neither the cries, the tears, nor the prayers of bankers can stop it; but whether they will exclude the trash of other states or not is a problem. If they do not, we shall regard the whole anti-bank movement as a total failure; for the banks of other states can make our currency and swindle us out of our earnings just as easily as banks of our own, and they will just as certainly do it if we do not bar the door against it.

The article which we have been noticing is replete with errors from beginning to end, and it would require a volume on political economy to refute them all, and that we have not time just now to write.

#### BE SURE YOU’RE RIGHT—THEN GO AHEAD

[October 20, 1846]

Our friend of the *Rock County Democrat* is much alarmed lest the bank question should distract and divide the Democratic party of the territory and suggests that some compromise be made whereby banks may be permitted to exist within the state after a specified period. We think our neighbor is unnecessarily alarmed on this score. If we have not utterly mistaken the public sentiment upon this question, the Democratic party will be triumphantly sustained in prohibiting banks in the state of Wisconsin both now and forever. If there was ever a distinct issue placed before the people, the question of bank or no bank, the question whether there should be incorporated in the constitution a positive and absolute prohibition upon banking within the state without any compromise, qualification, or drawback, was before the people of this territory during the late canvass; and it was this issue coupled with the long cherished and loudly professed principles of the Democratic party which gave to that party its overwhelming majority in the constitutional convention; and it appears to us like a most preposterous idea that the



safety of the Democratic party requires any sort of compromise with banks or bank paper. On the contrary, if there is any dishonor attached to false professions and faithless promises (we allude to the party and not to individuals) such a compromise must inevitably involve the disgrace and ruin of the Democratic party in Wisconsin. The *Democrat* says:

We are opposed to banks and banking altogether, out of our great commercial cities, where the facilities afforded by them to trade seem to be needed. But we can scarcely pretend to foresee the condition and wants of this section of our vast republic fifteen or twenty years from this time—and not being able to foresee them, it strikes us that it would be very much beyond the stretch of our capacity to pretend to legislate for the people who are to be the actors on the stage at that day. With all our opposition to banks and banking, therefore, we do not see that any wrong would be committed, or any principle compromised, by fixing upon a limited time during which banking under all forms should be excluded from the commonwealth of Wisconsin, leaving it after that time an open question to be decided by the people as their own principles and the interests of the state may seem to require.

If we admit the principle that banks are necessary, either in city or country, now or hereafter, we abandon the doctrine of a metallic currency as a fallacy, and plead guilty to the oft repeated charges of our opponents of insincerity in professing it.

If we have at all comprehended the Democratic doctrine upon this subject, it is that the banking system in all its phases is radically wrong in principle and mischievous in its tendency and that it never can be otherwise. If this is the doctrine contended for by the Democratic party, and that doctrine be sanctioned by the principles of political science, the doctrine must hold good so long as the principles of science endure. If it be true in theory that the three angles of a triangle are equal to two right angles, it will prove true and safe in practice, and it will be just as true in theory and safe in practice one thousand years hence as it is now.

If, on the other hand, the Democratic doctrine is that banks and bank paper are indispensable facilities for the transaction of business and that the only question between parties has been one of expediency merely as to the plan, time, place, etc., then we must confess that there has been a great cry about a little wool and that upon this question there is no definable difference after all between the two leading parties of the country.

But we do insist that there is a more substantial difference between parties than this—that the question is and has been for the last fifteen years, substantially, bank or no bank, a mixed currency of specie and bank notes, or a pure currency of specie only—

whether the Democratic party shall annihilate banks or banks annihilate the Democratic party and its principles, and whether this is the issue or not we apprehend that it will be the ultimate result.

Has the question between the two parties in their federal capacity been merely whether we should have a United States Bank upon this or that plan, or whether we should have any United States Bank at all? Most assuredly the latter has been the issue, and victory has perched upon the Democratic standard and been conceded by our opponents. What has been the issue upon the Sub-Treasury question? Has it been merely whether the government funds should be deposited with this bank or that—whether the government in its financial operations should pay and receive in payment this kind of bank paper or the other? Or has it been whether it would foster or countenance any kind of banks or bank paper? Every man knows that the latter has been the issue, and that the Democratic party has won the battle, lost it and won it again, and that bank paper stands repudiated, rejected, condemned by the federal government to the extent of its supposed authority.

In pursuance of this policy, the practicability and advantages of which are being demonstrated by the federal government, the new Democratic states, which are free from the corrupting influence and iron rule of a banking system, have been prohibiting banking within their limits, and even some of the older states which have experienced “the blessedness ye speak of” resulting from banking are amending their constitutions and adopting the same prohibitions, while still older states are groaning under the banking incubus, but find themselves so weighed down by its enormous power and influence that to shake it off is impossible. They are doomed to drag along, bound to a loathsome carcass, from which they cannot escape till the process of decay shall loosen the chains and let them go free. And is it to be believed that the people of Wisconsin, now happily free to use their limbs and bar the door against this foe to their well-being, are not disposed to exercise their liberty while they may? Is it to be presumed with all of her own experience, the experience of other states and nations, and the lights of political science before her that Wisconsin wishes to leave the door ajar for the advances of the faithless rake—to be courted and teased and finally decoyed or forced into the putrid embrace of the bank power? No, it cannot be.

We would say therefore to our brethren of the Democratic press, “Pluck up courage, stand by your principles, and dance the figure

through." What! Abandon our principles or lower our standard to save our party? No, never—never should it be done or thought of. Take from the Democratic party its principles, and we would not give a button for it. If the Whig doctrines in favor of banks and tariffs and all manner of monopolies and one-sided legislation be the true doctrines and the true course of policy, they ought to be carried out, and the sooner the Democratic party is dead and out of the way the better.

We believe the convention will adopt a strong article against banks and banking; and if they do, we hope to see, as we doubt not we shall, the Democratic press stand by the measure through thick and thin.

### THE SUFFRAGE ARTICLE

[November 3, 1846]

(The following article was prepared for our last paper, but was then crowded out.)

The article on suffrage and the elective franchise, after four days' discussion, was on Thursday last ordered to be engrossed for a third reading.

The debate was chiefly upon the first section of the article, which fixes the qualification of voters. It will be seen that the time required to gain a residence and a right to vote has been extended to one year.

This we think subjects emigrants to unnecessary delay in exercising the right of suffrage. We can see no reason why a man in removing from one state to another should be restrained from voting any longer than is necessary to test the reality of his residence, and this would be tested as thoroughly in six months as in a longer time. But as this is required of all, both citizens and foreigners, the article is free in this respect from those invidious distinctions between citizens and foreigners, which are becoming so justly unpopular.

We should have liked the article better had it made no distinction whatever between citizens and foreigners other than a declaration of intentions to become citizens, and even this we regard as altogether superfluous in respect to those who are in the country at the time of the admission of the state into the Union. We are aware that it is a great legal question, but from such an investigation as we have been able to give to the subject we are firmly persuaded that every person who is in the territory at the time of the adoption of the con-



stitution becomes a citizen of the state and by the admission of the state into the Union a citizen of the United States, whether he intends it or not; and consequently the article as it now stands will require such persons to declare their intentions of becoming what they are already, and to take an oath of allegiance to a government to which they already owe allegiance.

It is not our purpose at this time to enter into an argument in support of this proposition, but will only present the points of argument upon which we rely. The constitution confers upon the United States absolute powers of sovereignty over the territories. When a new state is to be formed Congress relinquishes the sovereignty to the people so far as to admit of the formation of a new government, which is so far sovereign and independent as to be capable of claiming allegiance. This change of government can be regarded in no other light than that of a revolution, so far as the powers and capabilities of the new government are concerned, one of which capabilities is that of claiming allegiance. A revolution has the same effect upon the inhabitants of the country revolutionized as if it were conquered by a foreign power, and we have not been able to discover that writers upon this subject make any distinction in the effect between a revolution by force and a revolution by common consent; and the conquered always owe allegiance to the conqueror. Thus far we believe we are borne out by such commentators as Kent and Story.

Now the question is, Upon what ground is the state of Wisconsin to claim the allegiance of any of her inhabitants? Is it on the ground that they owe allegiance to some other sovereign? Or is it on the ground of the succession of her own sovereignty over the country? Most assuredly the latter must be the only consideration upon which such a claim can be founded. If, then, the new sovereignty acquired the allegiance of any of its inhabitants by the naked fact of its coming into existence over them it must acquire the allegiance of all its inhabitants; for the only ground upon which it can claim allegiance at all affords no room for a distinction. American citizens and subjects of all the governments of Europe have joined hands and are in common forming for themselves a new government in Wisconsin. And is it to be presumed that those who form a government do not become citizens of that government and are not bound to abide by it?

The United States do not pretend to prescribe who shall take part in the formation of a state government, for they have no such power conferred upon them by the constitution, and not having this power



themselves they could confer no such power upon a territorial legislature; and the act of our legislature upon that subject was extra official and merely advisory, and had a territorial convention assembled and agreed upon all the preliminaries for electing a constitutional convention, it would have been equally valid. With the exception of the right conferred upon Congress by the constitution to control us as a territory all authority in relation to the formation of a state government is original with the people, and with the whole people, and we challenge the world to show that one man does not possess just as much authority in the premises as another. Yes, we believe it to be an incontrovertible fact that in the formation of the state government the natives of Europe now in Wisconsin have as much legal right to impose extra qualifications upon United States citizens as citizens have to impose the same upon them. We all stand in precisely the same relation to it and each other as if it were the first government which ever existed.

If this be true we do not see how it can be otherwise than that the new government must take effect equally upon all who are in the country at the time of its formation, making them all citizens alike and binding them all in allegiance to it.

If the formation of a government over a man does not place him in the same relation to that government which would have resulted from his being born under it, then all government must be founded in usurpation, for all must have been founded upon this principle.

If, then, all the inhabitants become citizens of the state as a necessary consequence of its succession to the sovereignty, can they be anything less than citizens of the United States on the admission of the state into the Union? We do not pretend that they become United States citizens by the authority of the state, but by the authority of the United States, which in receiving the state must receive her citizens such as they are. The moment the new state enters the Union and becomes a party to the federal constitution she cedes away her right to pass naturalization laws; but we cannot conceive how she can be supposed to have ceded away a necessary consequence of her birth to sovereignty, and that, too, before she was born.

If our notions upon this subject be not entirely erroneous, the provision in the article alluded to, which requires a declaration and oath in respect to foreigners who may be in the state at the time of the adoption of the constitution, is altogether superfluous.

This provision, however, was adopted as a sort of compromise between conflicting views, honestly entertained, and we hope that no one will vote against the constitution on that account.

### ADVANCING BACKWARDS

[November 3, 1846]

The Progressives at Madison seem to flatter themselves that in their enlightened efforts to deprive Wisconsin of capital and currency, they are making large strides forward in the march of civilization. But they are grievously in error. Instead of going ahead, they are advancing like the crab—backwards. More than three thousand years ago Sparta, blessed by the labors of just such another generation of wise and provident legislators, enjoyed the benefits of “hardest” of “hard” currencies—iron. But as this metal is not very abundant in our borders, lead might be substituted with advantage. If not a very convenient medium of exchange, it is at least admirably calculated to receive the “image and superscription” of our constitution-tinkers, and would be a lasting monument as well as a fitting type of their eminent wisdom.—Milwaukee *Sentinel and Gazette*.

That is a “hard” one. It contains two propositions if not more. The first is that by prohibiting the manufacture of paper money Wisconsin is to be deprived of capital and currency, by which we suppose is meant capital in the form of money. It has been abundantly demonstrated by political economists that the issuing of paper money does not increase the money capital of a nation or a state, and although they almost uniformly argue strongly that banks might be turned to good account, yet they never employ that argument. The most forcible and almost the only argument which they adduce is that the substitution of bank paper drives from the community which substitutes it a corresponding amount of specie, the value of which is returned in other products.

The advocates of banks and paper money in Wisconsin are very clear of using this argument, or admitting that such is the effect of paper money. They would make the people believe that to drive paper money from circulation would be to annihilate so far as we are concerned just so much capital in the form of money. This is flatly giving the lie to the plainest and most demonstrable principles of political economy—principles which are taught in all our colleges and universities and received by every scholar as the principles of unerring science. And we are amazed to see educated men and men of undoubted ability, who ought to and whom we cannot doubt do know better, sacrifice their reason upon the altar of party interest and party prejudice, and barter eternal truth for the shallowest kind of sophistry, and stigmatize as “tinkers” those who are disposed to turn the lights of political science to practical account.

The second proposition in the heroic argument of the *Sentinel and Gazette* is that the "constitution tinkers" at Madison by prohibiting banks and discouraging the circulation of paper money are not only going to deprive the people of money capital, but that they are going to give them too much of it—more than they can carry. What!—the *Sentinel* seems to say—What! Use gold and silver for currency! You might as well attempt to use iron and lead—there is so much of it. Use gold and silver for money! Why, gentlemen, you can't do it for two reasons: first, because there is not enough of it; and second, because there is too much. Advancing backwards? Better do that, neighbor, than tear one's self plumb in two in attempting to advance both ways at once.

If specie were such an inconvenient, unmanageable thing as to give paper money a preference over it, we should always find it bearing a small premium over specie; but inasmuch as specie in nine cases out of ten bears a premium over paper, the fact is established beyond all controversy that to the same extent, with all its inconveniences, specie is preferred to paper; and it is idle for any man to pretend that the mass of the people prefer paper money to specie so long as a silver dollar is worth more in the market than a paper dollar. We might just as well pretend that the generality of men prefer an ounce of silver to an ounce of gold. Most people, to say the least, have sense enough to prefer a thing which is worth more to one which is worth less. Depriving the people of capital and currency! It is just giving them a good dollar for a poor one, the market value of each being the test.

### THE BANK ARTICLE

[November 24, 1846]

Two unsuccessful attempts have been recently made to modify the article on banks and banking. On Friday last a motion to reconsider it was lost by a tie vote. On Saturday an amendment was offered to the bill of rights in effect repealing the sixth section of the bank article, but was ruled out by the convention on an appeal from the decision of the Chair that the amendment was in order.

With some the object in reconsidering was mainly to strike out the sixth section, which prohibits the circulation of foreign bank notes under \$20 after the year 1849. Others wished to get in the free banking system. The prevailing objection however (and that did not quite prevail) was to the sixth section, and the ground of



objection was that the people were opposed to it, that the people have right to receive such money as they please, and that to say they shall not is an abridgment of their natural rights.

For one, we do not believe that the people, if they understand distinctly what the sixth section is, are opposed to it. Suppose they have a right to take all manner of bank trash that they have a mind to? The question then is whether they have a mind to take this trash in preference to specie? Let a man try any one or any number of the people by giving them their choice in the payment of a due between paper and specie and see if ninety-nine in one hundred do not prefer the specie. Let him try to swap off one, three, and five dollar notes for specie, dollar for dollar, and see which the people would rather have. This we regard as the true test and a perfectly satisfactory one.

But, says the advocate of bank paper, if you drive these ones and threes and fives from circulation, there will be just so much less money in circulation, and farmers cannot sell their wheat, nor merchants their goods. Well, all we can at present say to this is that the objection betrays a most lamentable ignorance of the laws which regulate trade and currency. Drive paper money or any portion of it from circulation in Wisconsin, and an equal amount of specie would as certainly take its place as that water will seek its level; and a political economist would as soon think of objecting to the navigation of the ocean on the ground that the water displaced by a ship on its course would never close up as to raise such an objection against the rejection of paper money.

The people do not want paper money, and the object of the famous sixth section is mainly to relieve them from a sort of necessity for taking it so long as it is tolerated. This is the only effect the section can have and if it has that effect, we will risk the dissatisfaction of the people with having specie instead of paper in all the ordinary operations of trade.

#### CLERKS OF COURTS AND REGISTERS OF DEEDS

[December 1, 1846]

An amendment has been attached to the article on the judiciary uniting the offices of clerk of the district court and register of deeds. It limits the amount of fees which shall accrue to the clerk to \$1,500 exclusive of clerk hire, which is to be paid by the county and the excess of fees to be paid into the county treasury. Among the reasons urged in favor of this measure was that the fees of clerks of



courts and registers of deeds are too high, bringing a revenue in some cases of \$4,000.

To limit the fees to be retained by clerks of courts and to direct the application of the balance to the payment of the judge we think would be well enough because in that event the fees throughout would operate as a tax upon those who receive the services of the officers to whom it is paid. But we cannot understand the propriety of making a similar disposition of the surplus of the enormous fees now authorized for recording deeds. It is admitted that these fees are too high by one-half—that one-half of the money paid for recording deeds is extorted from our citizens without any just consideration in the way of services rendered.

And what is the remedy proposed? Why, it is that the officer shall not profit by the robbery, but that the plunder shall go to the public. It is supposed to be “lawful to put it into the treasury.” The government must not allow its officers to plunder the citizens—oh no, that would be very wicked,—but the government may do it, and it is all right. The citizen is robbed of fifty cents every time he gets a deed recorded, and the government seeks to mend the wrong by fobbing the money.

Now according to our way of thinking it is a matter of no great consequence to those who are robbed who the robber may be or what is done with the money—they are so much out of pocket. In our judgment it does not mend the matter at all that the money is devoted to public instead of private purposes. There can be no good reason why the citizen should be fined or compelled to pay an extra public tax because he has a deed to be recorded. This business of establishing enormous fees and then dividing them between the officers and the public is one of the most odious systems of indirect taxation ever invented. The system of indirect taxation established by the general government is quite bad enough without our establishing a system of fee taxation. We are utterly opposed to all such contrivances to filch money from the citizen to replenish the treasury. It is the right of every man when he is taxed to know how much he is taxed, what he is taxed for, and to have a hand in counting the money. If the fees for recording deeds are too high, as they certainly are, the only way to remedy the evil is to reduce them to a fair compensation.

That this compensation should amount to \$1,500 a year, either for a register or a clerk of a court, or half that sum, we do not believe, especially if he is to be paid extra for all the assistance he may

need. By what rule of propriety is a petty clerk to be paid \$1,500 a year for his personal services, while the governor of the state is allowed but one thousand?

Many regard it as an exceedingly hard case to pay to five judges \$7,500 annually, by a direct tax; but they will pay their clerks \$30,000 annually in fees and never wink at it. A great world this.

### ORGANIZATION OF THE LEGISLATURE

[December 8, 1846]

The article on this subject has finally passed the convention. The house of representatives is to be composed of seventy-nine members and the senate of twenty-one members—one hundred in all. The sessions are to be annual. Members are to receive two dollars per day for the first forty days of any session, and one dollar per day for the remainder of the session.

We doubt much whether this article will be well received by the people. In the first place we think the legislature is entirely too large for our present population and circumstances. The senate is none too large, but it appears to us that the house is out of all proportion to the senate. A house of forty-five members (the number reported by the committee) would, in our opinion, transact an equal amount of business in half the time which would be consumed by seventy-nine members, and do it equally well.

The consequence must be that the country will be constantly annoyed and perplexed by legislative crudities, or the senate must be half of the time idle during the sitting of the legislature. A house of seventy-nine is nearly as large a body as the present convention with its usual number in attendance, and that is entirely too large to admit of deliberate action. From all that we have seen of the doings of five territorial legislatures we would sooner trust any one of them with the decision of an important question of public policy than the convention now in session at Madison.

But graduating the pay of members by the number of days they may remain in session is by far the most odious feature of the article. It presumes that members elected to the legislature will be so regardless of every principle of honor and honesty as well as of their oaths of office as to remain in session longer than the public service requires, merely for the sake of the two dollars per day. Now, if this presumption be correct, the number of days for which they should receive pay should be limited absolutely to forty; and if they remain in session longer than that, they should receive nothing at

all, and, if possible, less than nothing; for over legislation is worse than nothing. The idea of paying men at all for violating their oaths and trifling with the interests they are set to guard appears to us supremely absurd.

If, on the other hand, the public interest should at any time require a longer session than forty days, there can be no reason why members should not be paid for their time. The injustice of requiring public service without pay is only outdone by proposing to pay men for doing nothing or worse than nothing. As it stands, it cannot be regarded as a very high compliment to public men in Wisconsin or to the people who select them.

SELECTIONS FROM THE MADISON *EXPRESS*

## PUBLIC PRINTING—PARTY DRILL

[October 13, 1846]

It will be seen by the reports of the proceedings of the convention that Mr. Gray of Grant County offered a resolution to have the printing let out to the lowest bidder, a measure which would have saved a large sum to the people of the territory. Had the vote been taken immediately upon it, there is no doubt that a large majority would have been found in its favor. But the consideration of the resolution was postponed, and the interim afforded an opportunity for certain leaders to "whip in" refractory members and thus defeat the wishes of the people. When the resolution was called up it was immediately quashed, and the election of a printer gone through with, which resulted in the choice of Mr. Brown of the *Wisconsin Democrat*. Although the election of a printer was their object, yet the Old Hunkers are by no means content with the result, and an ineffectual attempt was made to reconsider the vote. We said that a large sum would have been saved to the people of the territory had the printing been let out to the lowest bidder. Economy in expenditures, however, is no part of the Locofoco creed, and if the people do not by their votes emphatically say so when the state has been organized, we shall be much mistaken.

## A WHIG VIEW OF THE CONVENTION

[October 27, 1846]

The proceedings of this body have thus far been highly interesting. After having been in session *only* three weeks, they have actually succeeded in adopting two articles, one on banks and banking, and the other on suffrage and the elective franchise. The people have every reason to be thankful that this expedition has marked the progress of those whom they have sent here to form a constitution. If an equal amount of industry and perseverance is exercised in regard to the articles that remain to be acted upon, we may confidently expect that by the first of February next a constitution will be framed. How long it will then take to indite a Preamble we cannot say.

The article on banks and banking prohibits the existence of any bank or banking corporation within this state and excludes the paper of other states of a less denomination than \$10 after the year 1847 and after the year 1849 of a less denomination than \$20. We have



every reason to believe that this will in a great measure stop the influx of emigration, seriously affect our commercial interests, and greatly embarrass every department of business in our now prosperous and population-increasing territory. It were far better that we remain as we are, without being numbered in the constellation of stars of the Union, and without a voice in the national councils, than that our future prospects should be thus blasted and our future enterprise and energy forever crippled. The people of the territory will submit to no such sacrifice, to no such wrong; and we already begin to hear murmurings of disapprobation from Democrats as well as Whigs. Should the people sanction the adoption of this article and hereafter desire banks in the state, they will be met with the clause of prohibition, and with it the fact that this convention has assumed legislative powers—powers which do not belong to it. A redress of grievances can then be obtained only at the expense of amendment or of a convention to revise the constitution. We have no fears, however, of this article on banking being adopted by the people. The article on suffrage and elective franchise has been a source of considerable contention among the different factions in the Democratic ranks in the convention, some being in favor of submitting the question as a separate proposition whether we have universal suffrage or not, and others being violently opposed to it. The Whigs are merely “lookers on in Venice.” Every attempt they make to modify or substitute is immediately put down, and they are hardly allowed to express their sentiments. We had hoped a constitution would be framed by which we could be immediately admitted into the Union, but from the character of the articles already adopted even should the rest be unobjectionable, we are confident that it will be rejected. We shall have to “bide our time” patiently.

### CRAWFISHING

[October 27, 1846]

It will be recollected by some, at least, that Marshall M. Strong made a big speech in the council chamber last winter in favor of negro suffrage, but when the subject was called up in the convention last week he got up and said he had changed his views, and should vote against the measure, and did so. We opine that the abolitionists of Prairieville, who held a public meeting and passed resolutions commending the course of Mr. Strong and congratulating themselves on the acquisition to their ranks, will now since he has

crawfished call a meeting and rescind the said resolutions. Mr. Strong, we believe, is not the only one who has backed out or crawfished on this question. We are informed that none of the candidates in Waukesha County could have been elected had they not given their hearty support to the resolutions which were adopted at the meeting which nominated them, and which required them, if elected, to go for negro suffrage. Six out of eleven crawfished when brought to the scratch, as will be seen by reference to the ballot taken on this subject.

#### ERROR CORRECTED

[November 3, 1846]

In our last number we stated to the effect that we thought the editor of the *Argus* was the "softest" member of the convention. We did not then happen to think of the "gentleman from Dane," who had to have the nomination for the convention in order to save his party from a "split," or we should not have made the assertion without qualifying it. This gentleman is equally entitled to share with the editor of the *Argus* the application of the term "soft." He has disgusted every sensible man in the convention by his course there and by his clumsy attempts to make great speeches—"to his constituents in the gallery." On the bank question he "blew hot and cold," making speeches on one side and voting on the other. He has offered several foolish resolutions and amendments, and when they came up to be acted upon, called for the yeas and nays thereupon, and appeared as the only one in their favor. He is death on internal improvements and thinks it very unwise policy for our future state to foster or encourage them in any manner. What a pity it is this young sprout of Democracy was not on the stage of action in the days of De Witt Clinton. There is no telling what he might have accomplished. We do not wonder that John Y. Smith published in the *Argus* that George B. Smith was no kin of his, when they were both candidates for the convention. Probably the people will hereafter appreciate his worth and talents by permitting him to retire to the "shades of private life" after a short but brilliant career.

#### THE DREADFUL NEW YORK NEGROES

[November 10, 1846]

Mr. Ryan, I believe from Racine County, is reported to have said in the convention on the twenty-first of October that in New York City "every negro was a thief, and every woman worse." Now, I

have a curiosity to ascertain how he knows all this. Is it by experience, or by the information of others? If by experience, he must have been particeps criminis with them. And if so, his knowledge of such things must be extensive, for there are many thousands of both sexes of negroes in that city! If he made the assertion from the information of others he has been greatly imposed upon, and his own good sense—if he has any, which is doubtful, or he would not have made the assertion—should have told him so.

Of the colored population of the city of New York several thousands are worthy members of some Christian church, under the care and oversight of pious and enlightened whites. And it is an outrageous slang and slander to intimate that thieves, etc., etc., would be kept in church communion under the eye and care of such men. And of the blacks themselves many of them have attained a moral, religious, and intellectual standing that would put their traducer to the blush. They share honorably in the learned professions and can sustain themselves against the attacks, distant or present, of any political demagogue.

I am no abolitionist. I am not in favor of the African race remaining on our soil. I wish them to go back to the land of their fathers and redeem the continent from its present degradation because I know they never can be raised to an equality with the whites in this country, not for want of intellect, but on account of color. But I dislike to hear men publish such barefaced falsehoods, under the frenzy of heated debate or otherwise, at any time, and especially when it does such glaring injustice to a people who have already been ground to the bone. I go for giving the Devil his due, and certainly honest, industrious, and virtuous people, whether black, white, or red, ought to have it. Even Mr. Ryan is entitled to what is justly his due, though it should be that of false accuser.

It is not to be presumed that he ever saw many of the blacks in that city, and therefore could not know them to be thieves and worse. The presumption is that he made the assertion either from information or without it. If from information, he ought to have known that it could not be true, and never to have peddled off such a slander. But if he made it without being so informed he is entitled to the just odium that such an act deserves.

INQUIRER

## DISQUALIFICATION OF MINISTERS

[November 17, 1846]

November 2, 1846

MR. EDITOR: Among the wild schemes and antirepublican measures aimed at by members of the convention I perceive by the reported proceedings of that body on the twenty-first of October that my friend, Gen. W. R. Smith, proposed one which squints too strongly of the union of the state with the church, to pass without a brief notice.

His second resolution is reported as follows:

“WHEREAS, Ministers of the gospel are by their profession dedicated to the service of God and the care of souls, and ought not to be diverted from the great duties of their functions, therefore, no minister of the gospel, or priest, of any denomination whatsoever shall at any time hereafter, under any pretence or description whatever, be eligible to or capable of holding any civil or military office or place within this state.”

Now, if the state has a right to say what the church or her ministers shall or shall not do, then upon the principle of equal and impartial justice the church may say what the state or her ministers (politicians) shall or shall not do. It has been the glory of our American institutions that church and state, or state and church, were not and should not be united. One should not control the other in any shape or form whatever. But here is a barefaced proposition for the state to control the church by disfranchising her ministers. The next step may be to control her faith and practice! Have not ministers the same right to exclude officeholders from their communion and the means of salvation, as officeholders have to exclude ministers from their places? The acts and doings of a minister of the gospel, if improper, are a subject of church discipline, and by the sacred principles of her ritual corroborated by the Constitution of the United States, that discipline is her own concern, has been adopted as the dictates of the consciences of those subject to it, and cannot be touched by the unclean hands of political demagogues or corrupt statesmen.

The propriety or impropriety of ministers of the gospel holding civil or military office is not the point now to be discussed. I leave that where it belongs—to the church—which is amply able to take care of her ministers and members without the unhallowed aid of civil legislation. But the question is as to the legality or constitutionality of the state thus interfering with the affairs of the church.



I am sure that [neither] my friend, for whom I have a high degree of personal respect, nor any intelligent member of the convention could have viewed the subject in its proper or legitimate bearings or he would not have introduced such a resolution, nor would the house have referred it for consideration. And yet, possibly before this reaches you that article may have been passed and become a part of the constitution of this state, and, if so, it will have another clog to prevent its adoption by the people.

A part of my objections to the proposition is as follows, viz.,

1. It is contrary to the spirit as well as to the letter of the Constitution of the United States. Article VI, section 3, of that instrument says that "No religious test shall ever be required as a qualification to any office or public trust under the United States." This clause, it is true, was intended to prevent any law from requiring a profession of religion as a qualification for office, and thereby unite church and state in effect if not in fact, and open a wide door to make religious hypocrites in order to gain a civil office. But it is equally as clear that the spirit and intent of the clause goes to say that no man shall be disqualified for office because he does profess religion! It may be objected that the proposed article for our constitution does not prohibit professors, merely, but only ministers from holding office. But is not the ministry a religious profession? Suppose a law passed requiring every officeholder to be a minister, would it not be requiring a religious test? Certainly. And why is it not the same thing to require officeholders not to be ministers?

2. Amendments of the Constitution. Article I: "Congress shall make no law respecting the establishment of religion or prohibit the free exercise thereof." The proposition before us may not be called "an establishment of religion," but it certainly "prohibits the free exercise thereof" in a certain class of men. These men wish to exercise their religion not only in the pew and at the altar, but in the pulpit. But if for so doing they are disfranchised from holding office, are they not prohibited from the free exercise thereof?

3. Amendment, Article V: No person shall "be deprived of life, liberty, or property without due process of law." The "process of law" here means a trial for some alleged offense. Our laws provide that persons convicted of certain offenses shall not be at liberty to vote, and no one can hold an office who is not a legal voter. But this proposition goes to deprive the minister of the gospel of the liberty of holding an office without the "process of law." All legal voters are eligible to office; but if the minister is ineligible to office

he cannot be a legal voter. If to be a minister is a crime, or to be a crime, one of the penalties for which is to be disfranchised from office, as in the case of some infamous crime, the Constitution of the United States requires that he should be first convicted thereof by due "process of law." But have General Smith and his coadjutors thus tried and convicted all ministers of the gospel en masse? And is this a part of the sentence? If so, under what law? Or in what court?

4. Ordinance of 1787, Article I: "No person demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in said territory." The minister's mode of worship is to preach and expound God's holy word and to administer the ordinances of the church to his brethren. But if because he worships in the pulpit he is to be deprived of the privilege common to all citizens—that of holding office—is he not "molested on account" thereof? This state is a part of the Northwest Territory to be governed by that ordinance, article fifth of which provides that the "constitution and government of all the states to be formed out of said territory shall be 'in conformity to the principles contained in these articles.'" If, therefore, this odious proposition is adopted it will be in open and barefaced violation of "the principles contained in" said "articles."

5. The reasons assigned in said resolution for this deed of darkness and oppression are that "ministers of the gospel are by their profession dedicated to the service of God and the care of souls."\* But is the profession of "dedication to the service of God and the care of souls" a disqualification for office? If so, there are thousands of others in our country who must fall under the same condemnation. Every member of a Christian church has professedly and publicly dedicated himself to "the service of God," and by virtue of their profession and membership have "the care of souls," for all members of the church are bound by their social compact to care for each other. And if ministers are to be disfranchised and molested on account of such dedication to God, then every member of a church should share the same fate. But an attempt may be made to make a difference here, where none exists; that is, to disfranchise the minister because he ministers in holy things, but leave the members without this molestation because they are not official characters in the church. If this be so, then, gentlemen, change the phraseology

\*One would think that such bodies as our convention and legislatures, had great need of some one or more among them who would take care of their souls, since they do not take care of them themselves.

of your "whereas." But if the ministry is to be thus molested *ex officio*, then to be consistent every officer of a church should share the same fate, for elders, deacons, wardens, vestrymen, leaders, etc., are officers of their respective churches, and in the absence of their ministers often—and ought much oftener than they do—minister in holy things. They conduct the public worship of the church or congregation. They sing, pray, and read sermons equally as good and often better than when a minister copies and reads them. And if I am not mistaken, my friend who offered this odious resolution is himself a member and officer of a respectable branch of the Christian church; and if so, he has professedly and I hope actually has dedicated himself to the service of God and the care of souls. And if so doing in a minister disqualifies him for office, then General Smith and some other members of the convention are disqualified.

6. General Smith, I believe, belongs to a church whose ministers all have salaries and "the care of souls." And churches who pay a minister for his time and services expect to pay and do pay him for his whole time, so that he has no time to attend to other matters, or at least it should be so. But there are ministers who have no pastoral charges or the care of souls and of course receive no salary for their support. These ministers "preach for nothing and keep themselves." They are, therefore, compelled to attend to some worldly business for a support. Of this class of ministers, there are some eight thousand in the Methodist Episcopal Church in the United States alone, to say nothing of other denominations. Now, I ask if the duties of an office, most of which are local and refer only to the municipal police of the town or city, are any more incompatible with the duties of the ministry than the farm, the shop, or the counting house. If he has a regular pastoral charge and receives a support from his people he would never dream of an office, nor would his people consent to it if he did. They pay him for his services and they will not consent for him to divide his time between them and others, unless in cases of sheer necessity. But this the church will attend to without the aid of constitutional or legislative enactments. But if the minister has no such charge and has no such support, but is thrown upon his own resources, he must either beg, steal, or work. To beg he won't, to steal he can't, and to work he will of necessity if not of choice. Now what in the name of the seven wonders of the world is the difference whether he works his farm, in his shop, behind a counter, or with his head and pen in an office? Thousands of these local ministers never had pastoral charges and probably never will. Like elders, deacons, wardens, leaders, etc., they may have



been lawyers, doctors, farmers, or mechanics, but when they embraced religion and joined the church of their choice, they "dedicated themselves to the service of God and the care of souls" in their lay capacity. They were zealous, as they should be, for the salvation of others, and to aid in this great and holy work they took an active part once or twice a week in religious exercises. In process of time their brethren licensed them to preach, as lay or local preachers. They do not feel called to devote their whole time to the ministry, or perhaps their domestic relations or health will not admit of such devotion. All these things are matters lying between them, their God, and the church to which they belong. But because they choose to worship God in this way, are they to be molested? Are they to be disfranchised from the common privileges of citizens, when, in all other respects, they live, act, and work as do other professing citizens? Is this anti-"religious test" to office to apply to them and not to other laymen in like circumstances? Shame on such an anti-republican doctrine.

7. The article on suffrage and the elective franchise provides that all legal voters shall be eligible to office. Now if this proposition should be adopted, the suffrage and franchise must be amended so as to disqualify ministers for voting, or the two articles will not jingle well in the constitution. Indeed, the same spirit which will disfranchise a man from office will prevent his voting. Indeed, I have heard ministers' voting objected to upon the same ground that it is here urged why they should not hold an office. Disfranchise a man from office, and to be consistent, you must disfranchise him from voting. And when this is done, unless it be for crime, you must exempt him from taxation. For the principle upon which our national revolution was based is yet good—no representation, no taxation. To tax a minister and yet deprive him of the privilege of voting or of his eligibility to office or a seat in the law-making assembly which taxes him would be to place him in a similar situation of the colonies, from which our fathers rose and declared and secured their national independence.

8. But it is objected that the legislature and indeed most civil offices are such immoral, impure, and unholy places that men professing the holy religion of the Bible ought not to be there, lest they become contaminated by the association with such corrupt beings. But this is a strong reason why some good men should be there, to restrain by moral influence and moral suasion others from being so wicked. But is it, indeed, the case that legislative assemblies or



other offices of trust or the bench are necessarily wicked and corrupt? I am aware that our legislature has heretofore enjoyed an unenviable notoriety for their immorality. The "Tiger," the "Worser," and such like places were the common haunts of some of the members, and intoxication and gambling distinguished too many who were sent to Madison to make good and wholesome laws. But was there any necessity for this? Were there not at the same time many honorable exceptions from this horrid picture? And have not the people repeatedly said at the ballot boxes that they would dispense with the services of such guilty public servants?

9. It is a maxim coeval with our republican institutions that every part, portion, and class of the community should be represented in our legislatures; and that, too, as near as may be in proportion to the numbers of each. And on this principle the farmer, the mechanic, the doctor, and the lawyer have usually been represented. Shall not the clergy be represented also? Shall they *ex officio* be politically damned, because, forsooth, their profession supposes them to be holy men?

10. The example of our fathers of the Revolution is deemed good authority on all political subjects. The corruptions of later years are not supposed to have then existed. Everything is supposed to have been done on the purest patriotic principles. If then the presence of a clergyman was so antirepublican, if the patriot fathers deemed it their duty to secure the purity of the church by excluding her ministers from their national councils, if such councils were too impure places for holy men to be in, why in the name of common goodness did not the Congress of 1776 exclude the venerable and immortal John Witherspoon from their assembly? He was a minister of the then Church of England, now Protestant Episcopal Church.

11. But who is it that are generally so squeamish about the purity of the church? Is it men who care one whit whether the church lives or dies? Is it not generally those who of all others have the greatest dislike to the moral restraints of church discipline and who urge the absence of ministers because their very presence reproves the sinner? A few exceptions may be found, among whom is the mover of this resolution. But I strongly suspect he was made a cat's paw of to get it introduced, expecting the votes of skeptics, gamblers, tipplers, and such like, if there are any there, with a few mistaken religionists to sustain it. The candid, the liberal, the enlightened statesman will not act so inconsistent a part, so anti-republican a part, so unreasonable, so unjust a part, as to disfranchise a man *ex officio* from any office.

12. Men, to become ministers, must have some talent. They must have read considerable, and are often considered good LL. D.'s, and their general knowledge may be of great use to a legislature. Their numbers in the legislature can never be great, and there can be no possible danger of their making laws as lawyers or doctors do, to favor their own professions. But by barring the door against them you deprive yourself of their talents, experience, and wisdom, besides doing them and the country a great injustice.

But this article having greatly extended beyond my original intention, I must close, though but little has been said that might be on the subject. I care but little about the matter on my own account. I can leave the state if it should ever affect me. But I care for and love the country and desire its settlement. But ministers will not like to settle where they cannot be citizens and share their privileges, and will turn their course, and of course their friends with them, to other states where their rights are acknowledged, though they never use them. I could say much more, and probably if the odious article is adopted, I shall and in a way that will reach the ballot boxes, if it can't reach the convention.

SOLON

#### PROCEEDINGS OF THE CONVENTION

[November 17, 1846]

The proceedings of this body the past week were characterized by more industry, and more business was accomplished, we believe, than in any other week since the session commenced, notwithstanding the gloom produced by the death of one of its members, the Hon. Thos. P. Burnett, and an adjournment over one day of a testimony of respect for the deceased. An interesting discussion was had on the subject of the death penalty as a punishment for murder, occupying considerable time and eliciting able remarks from gentlemen on both sides of the question. This is a subject that deserves and should receive the greatest consideration, not only on account of its own merits, but as a subject which has engrossed the attention of philanthropists and of the legal profession for many years. We do not understand that any definite action has been had in regard to it; and should the convention refuse to incorporate an article into the constitution, forever prohibiting this mode of punishment for the highest of crimes, we think the matter will be left to future legislatures to determine.

It will be recollected that the article on banks and banking with its odious prohibitory clauses was forced through the convention

at an early stage in its proceedings by the radical opponents of the system. This was an unfortunate circumstance for these gentlemen. Since then many members who were induced to vote for the article have visited their homes and constituents; and from certain manifestations of itching in their ears we judge they have been somewhere in the vicinity of fleas. It is now pretty generally understood that the vote on this bank article is to be reconsidered and the whole concern essentially modified in its character. At any rate the sixth section, which prohibits the circulation of bills of other states of less denominations than \$10 and \$20, is to be stricken out, and a new one substituted admitting paper of all denominations. There also seems to be a growing disposition favorable to granting charters to banking institutions in this state. If, argue they (and very pointedly, too) we are to have paper money at all, let us have banks under our own control, subject to such restrictions as we may see fit to impose, where we can keep an eye upon their doings and not be flooded with foreign paper, liable as it is to fluctuation in value, and the banks that issue it ready, at the least run upon their specie, to break down and leave their worthless trash in the hands of the community.

No concealment is attempted in this matter; it is boldly asserted that the article will not be submitted to the people as it now stands—that it will undergo modifications doing away with its proscriptive character, or else be wholly stricken out, and an entirely new article framed to occupy its place. The “hards” will make a desperate effort to prevent any modification, but being shorn of their strength will not be successful. Should the proposed alterations be made (and we can see no reason to doubt that they will) it will place our constitution in a different position before the people, and if the spirit manifested here is carried out in regard to other provisions, it will be more likely to be adopted by them.

P. S.—Since the above was put in type Mr. Reed of Waukesha County has introduced a resolution to submit the question of banking as a separate proposition to be voted upon by the people, and if a majority shall be found in favor of banks, the legislature shall have power to create a general banking law. Moses M. Strong moved the indefinite postponement of the resolution, which motion failed, and it was laid over till today under the rules, when it will be taken up for consideration. Most of yesterday was occupied in debate on the subject of apportioning the members of the senate and house of representatives.



## REFERENDUM ON THE CONSTITUTION

[November 24, 1846]

It has been remarked by some of the members of the convention that the constitution would not be submitted to the people of Wisconsin for their approval or rejection till it has been submitted to Congress. This may be the best plan, but we doubt it very much. If it should be submitted to Congress first, it cannot in all probability get a vote on it by the people until late in the summer, if before the general election in September next; and if it should be rejected (of which there can scarcely be a doubt), there cannot be any law enacted till the next following regular session of the legislature, which will be in January, 1848, unless we go to the expense of a special session. But should it be submitted to the decision of the people soon after it gets out of the hands of its illustrious fathers (if that time should ever take place) and should be rejected, the next legislature (in January, 1847) could pass a law authorizing an election to choose another set of delegates to try their "fists at constitution making." We believe that three weeks will be sufficient time for the people to make up their minds how they will vote after the document is completed and laid before them. Yea, we believe from the information we get from different sources that the people have made up their minds upon the subject from what has already gone before them, without reference to what may hereafter be done, and will reject it by an overwhelming majority. We take it for granted that the constitution will be completed by the middle of December; let it then be spread before the people immediately, and let them have an opportunity of voting for or against it some time in the month of January, and the result could be known before the legislature will adjourn, and a law passed authorizing a new election to be held for choosing delegates at the same time that the town elections are held, or at any other time as the legislature may think proper, if it should be rejected. By adopting this course, we shall in all probability be admitted into the Union as a state one year sooner than we should if we wait for the decision of Congress before we vote upon it. We admit that the argument used for staving off an expression of the will of the people is an ingenious one, that it will give them time to take a "second sober thought." But, gentlemen, it won't do; you can't lull them into fancied security by having the time postponed until the constitution becomes an "old story"; they will never be caught napping when their dearest rights are at stake.



## THE BANK ARTICLE

[November 24, 1846]

In our last paper we expressed a decided opinion that the convention would reconsider the vote on this article and strike out the clause which prohibits the circulation of small bills of foreign banks. In this we have been disappointed. On Friday last Mr. Hicks made a motion to reconsider this vote, which resulted in a refusal, as will be seen by reference to our reports. Immediately after the adjournment of the convention Mr. Randall gave notice that there would be a meeting held that evening and requested all to attend who wished to frame a constitution that would be acceptable to the people of Wisconsin. Great excitement appeared to prevail, and at an early hour a majority of the members were in attendance at the convention chamber. The meeting was organized by calling Mr. Kellogg to the chair. Mr. Randall stated that the object of the meeting was to take into consideration the propriety of adjourning the convention and returning to their constituents, and not spend any more time in framing a constitution when there was no prospect of its being adopted. Mr. Tweedy rose and remarked that he was opposed to the bank article as it passed and had done all he could to prevent its passage in its present shape, but considered it his duty to remain till the close of the convention and do all he could to make a good constitution—one that would be acceptable to the people; and if this object was not accomplished, he did not intend that the fault should be justly chargeable to him. Messrs. Parks and Judd made some similar remarks, stating that they did not feel at liberty to vacate their seats until the constitution was framed; that their constituents had sent them there for that purpose; and that they could not allow any objections they might have to a particular article to prevent them from performing their duty and their whole duty in regard to the rest. After some further remarks from other gentlemen, the meeting on motion of Mr. Tweedy went into an informal discussion of the article on the judiciary, which subject was before the convention. If the bank article should prove obnoxious and be rejected by the people, let the blame rest where it belongs (on the party in power) for we are proud to have it to say that the Whigs are with one exception unanimously opposed to it as it now stands. They being largely in the minority have been unable to alter it in any particular whatever. We say again, let the dominant party take the responsibility.

## THE "HARMONIOUS" DEMOCRACY

[December 1, 1846]

It is well known that the representatives of Democracy now assembled here have not acted towards each other as brothers of the same political creed should act and that a spirit of strife and contention has been exhibited amongst them. While this is true, no overt acts of hostility have been committed until last week, when (as will be seen by our reports of the proceedings of the convention) the elements of discord broke out into a flame, and had it not been smothered by the greatest exertion, there is every reason to suppose that the fair fabric about being raised by the joint efforts of "hards," "softs," "tadpoles," and "crawfish," would have been totally annihilated. We refer to an altercation which occurred in the convention between Moses M. Strong and Mr. Magone, in which the former threw his cane at the latter, without, however, any serious damage. These gentlemen, belonging to opposite factions of the same party, have given substantial evidence of a want of harmony in the Democratic ranks; and although we do not purpose to take sides with either of the belligerents, we shall state our opinion of the matter. The personal application of the charge of "low pettifogging" made by Mr. Magone to Mr. Strong was wholly unwarranted, and would have applied (had there been any truth in it) with equal force to other gentlemen who took part in the discussion. On the other hand, while the offending party deserved a severe rebuke, the manner of bestowing it was not at all calculated to cool the excitement or allay the fever of passion. We hope that for the future and for the honor of the territory the capitol will not be made the theater of any more such disgraceful scenes. Such conduct should meet with reprobation, and especially when the actors are those chosen to frame the organic law of a state.

THE RIGHTS OF MARRIED WOMEN—EXEMPTION OF  
PROPERTY FROM FORCED SALE

[December 8, 1846]

\* \* \*

All acknowledge that woman has rights that should be protected; yet all do not agree in what those rights consist. Some maintain that she should enjoy the same privileges as the other sex in regard to all the civil relations of life—have the privilege of voting, holding

office, and holding property separate from her husband; while others (and a large majority) believe that she would be thrown from her appropriate sphere should she be permitted to exercise these functions. We belong to the latter class. What does woman pledge herself to do when about uniting her destiny with the man of her choice? That she will love and obey him. Is it consistent with love and obedience to withhold that from the husband which should be used for the benefit of both? We opine that it is not. But here we may be met with the objection that the husband may squander the property of the wife and reduce her to penury and want. This we admit; but does this apply in all cases? Certainly not; it is only an exception to a general rule. Why, then, by giving woman the control of her property after marriage, open the door wide for domestic disquietude and the severance of ties that should be held sacred? Woman when occupying the position designed for her is seen to the best advantage. There she holds supreme sway—there she is the companion of man, the guardian of infancy, the ministering angel to all the “ills that flesh is heir to.” But snatch her from this lofty station, place the ballot in her hand and bid her vote, seat her in legislative halls, give her the control of property separate from her husband, and she will become equally as selfish and equally as ambitious as man now is, and instead of devoting her life and energies to calming the sterner passions of man and making home an Eden she will but add tenfold to the calamities and misfortunes that already press heavily upon humanity.

In regard to exemption from forced sale we are in favor of the principle, and hoped to see a clause incorporated in the constitution exempting a certain amount of property. But in the section adopted by the convention no limitation is put upon the amount that can be held free from forced sale—thus holding out inducements for the greatest frauds and iniquities. Trade and commerce would be seriously injured should the people give it their sanction. None but capitalists could do business, and a monopoly would thus be created that would be felt by every farmer, mechanic, and laborer in the state. As our Democratic friends profess to be opposed to monopolies, we hope to see them give tangible evidence of their sincerity when the constitution is presented for their approval or rejection. In our view, should the constitution be every way worthy of acceptance in other respects, the article \* \* \* would render it so objectionable as to merit defeat.



## THE END OF THE CONVENTION

[December 15, 1846]

Tomorrow morning is fixed upon for the final adjournment of this body—a session of eleven weeks and two days. This is, all will agree, a remarkably long session, and if length of time consumed is any proof that the members have acted with a view to prepare carefully and agree upon an instrument that would reflect the highest honor upon them, then the people of Wisconsin have a right to expect a model constitution. But a portion of the time has been occupied in disputes and wranglings between rival factions in the Democratic ranks, which, for the time being, seemed to be the express object for which they had convened. We have looked upon these unfortunate occurrences more in sorrow than in anger, knowing that quarrels as well as accidents will happen in the best regulated families, and had fondly cherished the hope that in parting they would part in peace. But even this consolation has been denied us, and—it gives us pain to record it—the “war still rages,” according to the prophetic declaration of Mr. Ryan that should they refuse to take the printing of the journal of the convention from the Democratic press here at Madison they would separate mutually hostile towards each other. But we forbear.

We have given, week after week, the proceedings of the convention, the articles as reported by committees, and many as afterwards amended and passed; but if our limits will admit, we shall publish the constitution entire next week, and our readers can then correctly judge of its merits. We are opposed to its adoption by the people and shall take occasion hereafter to comment upon such articles as in our opinion should be repudiated by the people of this territory. We have given all the proceedings of moment up to the present time. Saturday last was consumed in making verbal amendments and passing resolutions for the pay of officers of the convention, etc. Yesterday morning there was barely a quorum present to do business; now we understand there is not even that number. The constitution is now being enrolled and will probably be signed today by the remaining members.



SELECTIONS FROM THE MILWAUKEE *SENTINEL*  
AND *GAZETTE*

## A DANIEL COME TO JUDGMENT

[October 15, 1846]

Of all extraordinary reports ever submitted to a deliberative body we think that of Mr. Ryan of Racine on the subject of banking (published in today's paper) caps the climax. We hope our readers will preserve and ponder upon this remarkable document. The "Blue Laws" of Connecticut were nothing to it. Draco, who wrote his code in blood, was a mild and humane legislator compared with Mr. E. G. Ryan. But what else could be expected from the way in which the report was made? The committee was appointed on Thursday afternoon, and on Friday morning Mr. Ryan appears with his cut-and-dried document and modestly asks the convention to engraft it upon the constitution! To be sure his committee had had no consultation; had not considered the subject at all; had not even been called together; but Mr. Ryan had saved them all this trouble by doing the thinking himself; had submitted the results of his cogitations to his colleagues, one by one, that morning, and they, with one exception, "acquiesced." And this is the way in which Mr. Ryan goes to work to form a constitution for Wisconsin. Why, a village debating society would treat a subject of this nature with more respect.

## BANKS AND BANKING

[October 17, 1846]

The *Courier* seizes upon the failure of the Oakland County Bank, one of the last of the "wildcat" brood in Michigan, to denounce all banking institutions or associations and to express the hope that the constitution of Wisconsin will "absolutely prohibit their creation." "Is it not enough," asks the *Courier*, "that our people should be despoiled of their property by the swindling banks of other states without bringing into life in our own a horde of these victimizing institutions to sap the fountains of our prosperity?" If no other banks could be had than such "swindling" concerns as the "wildcat" institutions of Michigan, as some of the "irresponsible" banks of other states, we would join the *Courier* very heartily in its present crusade. But the experience of other states must convince any man who will give the subject a moment's thought that there are such things as honest, well-managed banks and that Wisconsin needs

and ought to have some of her own. If the people at large suffer by the failure of such a concern as the Oakland County Bank, it is simply and solely for the reason that its notes were not properly secured. Failures will occur under the best regulated banking system, as they will sometimes overtake the most prudent merchant and the most industrious mechanic. But with a good system the people, at least, can be effectually protected against the consequences of every failure. What possible objection, for instance, can there be to such a system as the one now in successful operation in New York, and which has just received the all but unanimous endorsement of a "Democratic" Reform Constitutional Convention? The features of this system are simply free banks; individual liability of stockholders to the amount of their respective interests; ample security for the notes deposited with the state comptroller; and in case of failure bill holders to be preferred creditors. Now, with such provisions in our constitution where would be the chance for "swindling the people?" How could bill holders suffer loss? By what process could institutions thus organized and guarded despoil the people of their property or "sap the fountains of public prosperity?"

The *Courier* does us no more than justice in saying that it will not accuse us of wishing to foster irresponsible banks, and that we no doubt believe that banks can be honest, profitable to their owners, and serviceable to the country, and that, therefore, we desire to have them. It is because we so believe, and because, further, we desire to see our people protected against "irresponsible banks" that we urge upon our convention the adoption of the New York system. We never expect to be interested ourselves to the amount of a dollar in any banking institution here or elsewhere. Printers and editors are rarely blessed with any surplus capital for such operations and we by no means expect to prove an exception to the general rule. But we have a deep and earnest desire to see Wisconsin prosper. We entertain no doubt that with a liberal constitution and wise laws our territory will speedily become one of the most wealthy and populous states of the Union. We regard a good banking system as equally important to the development of our resources, to the promotion of our interests, to the encouragement of enterprise, and to the reward of labor. We believe such a system to be alike advantageous to the farmer, the laboring man, the mechanic, and the merchant. All these interests prosper and flourish where there is sufficient active capital to give to each a healthful stimulus and sound local currency to supply the wants of everyday business.

Compared with these classes the capitalist has but a minor interest in the question of whether or not we shall have a good banking system. He can find investments and obtain interest for his money under any state of things. Banks, or no banks, the money lender is at no loss for customers. Indeed what more desirable legislation could there be for him than that which deters capital from seeking investment in our territory and thus by diminishing competition enhances the market value of his money and enables him to exact such rates as he may choose to demand?

The agricultural interest is the great interest of Wisconsin and this it is which is suffering and will continue to suffer most by such legislation as Mr. Ryan of Racine proposes to inflict upon us. How many settlers are there now in our territory who have been compelled to borrow the money with which they bought their lands, at fifteen, twenty, twenty-five, aye fifty per cent interest? Do they think that money would command such exorbitant rates if we had good banking institutions here and the increase of capital which such institutions bring in their train? How many farmers are there who are now daily compelled to sell their wheat at three, five, and sometimes ten cents a bushel below its actual value because money is scarce and wheat buyers in order to get it must pay ten, twelve, or fifteen per cent interest? Does the wheat buyer suffer by such a state of things? Not he; for whatever rate of usance he pays he takes good care to leave a wide margin in his dealings with the farmer. How many mechanics and workingmen are there in our territory who have to take pay for their work in trade or orders or who must put up with low wages because money is scarce and only to be obtained at high rates of interest? Is it the master builder, the manufacturer, the merchant, or the forwarder that suffers most from this circumstance? Not they; for whatever the rate they pay for the money which they must borrow from time to time to carry on their business, a proportionate reduction is made in the remuneration allowed to the men in their employ. Can it be necessary to multiply these illustrations to show that this pretended war against capital and currency is in fact a war upon labor? That however the money lender may profit by it, the mechanic, the farmer, and the laborer are equally and deeply injured? That it is, in short, legislating for the rich at the expense and to the detriment of the poor? Is there anything just, wise, or democratic in such a policy?



## THE QUESTION OF BANKING

[October 21, 1846]

The ultra course pursued by some of the so-called "hards" in the convention at Madison calls forth no approving response from either the press or the people. The *Rock County Democrat* has an article on the subject, from which we extract the following paragraph:

We are opposed to banks and banking altogether, out of our great commercial cities, where the facilities afforded by them to trade seem to be needed. But we can scarcely pretend to foresee the condition and wants of this section of our vast Republic fifteen or twenty years from this time, and not being able to foresee them, it strikes us that it would be very much beyond the stretch of our capacity to pretend to legislate for the people who are to be actors on the stage at that day. With all our opposition to banks and banking, therefore, we do not see that any wrong would be committed or any principle compromised by fixing upon a limited time during which banking under all forms should be excluded from the commonwealth of Wisconsin; leaving it after that time an open question to be decided by the people as their own principles and the interests of the state may seem to require.

The want of active capital and a sufficient currency is more immediately felt in the great commercial cities of our country than anywhere else. But the consequences of this want would eventually extend to all parts of the Union and affect more or less every branch of trade and every pursuit of industry. Banish banks, drive out all bank paper, and exclude all "foreign" capital from our territory, and the merchants and forwarders on the lake shore would first feel the effects of the consequent pressure. But the country merchant, the farmer, and the laborer would be the next sufferers, and when the first should find his goods remaining unsaleable on his shelves, the other should be compelled to sell his wheat at fifteen cents a bushel, and the third be forced to work for two or three shillings a day, they would begin to realize the effects of the war upon capital and currency which our legislators at Madison have formally declared.

The *Democrat's* gentle hint to the convention, not to insist upon doing up all the legislation for the next twenty years will, we fear, be thrown away upon that body. Undoubtedly the members seem to assume that all the wisdom, all the experience, all the honesty, and all the democracy that is likely to be found in Wisconsin for the next generation is now concentrated at Madison. Hence they are not troubled by a single doubt or misgiving as to their capacity to legislate for the people for a quarter of a century to come and would be the last to admit the possibility that any future assemblage can



be equally well qualified. As to leaving it "an open question" for the people to decide, that would savor too much of genuine democracy to meet the views of the political mountebanks at Madison. They hold that "the farther the power is removed from the people, the better." Hence their efforts to fetter all future legislatures so effectually as to put it out of their power to do the will of the people, no matter how loudly and emphatically that will may be expressed. It remains to be seen whether the people will remain quiet and unresisting while their would-be masters thus attempt to pinion, gag, and blindfold them.

### MORDECAI AT THE KING'S GATE

[October 22, 1846]

The Madison correspondent of the *Racine Advocate*, who signs himself "Lobby" but is hugely suspected of belonging to the "regular" house, is growing more and more dissatisfied every day with the way things are shaping at the capitol. Although by no means singular in his dissatisfaction, this writer's reasons for quarreling with the doings of the convention are peculiar to himself. What these reasons are may be gathered from the following extracts:

General Smith took occasion to be particularly severe, in his way, on the bank committee, and gave them fresh and foaming the wrath he had kept [bottled] up over Sunday in reply to their remarks on Saturday. To this the former gentleman retorted with interest and the latter laughed; but the most notable fact in this little imbroglio was once more the smiling physiognomy of the gentleman from Winnebago, who turned full round from his seat and smiled and nodded his approbation and punctuation to the remarks of General Smith.

\* \* \*

The only thing noticeable in these things was once more the self-satisfied countenance of the gentleman from Winnebago, who smiled on both efforts with a paternal air of approbation which savored much of the vanities of authorship.

\* \* \*

Mr. Ryan then offered another amendment excluding foreign bank notes under \$10 after 1847, and under \$50 after 1849, which carried by a close vote, most of the real antibank men then for the first time severing themselves from their allies, and the gentleman from Winnebago finding himself for once in an uncongenial crowd.

\* \* \*

Through all this are rumors of a new party, new men, new principles, new tests. Dodge and all his friends, and all the old known men of the Democratic party, both Strongs and their friends, Judge Dunn, etc., etc., are to be thrown aside, and a softer race is to take the field in their place. \* \* \* The gentleman from Winnebago was here several days before the sitting of the convention, and his staff of new converts has been active in the maneuvers ever since, and every approachable delegate was approached as soon as he arrived.

The reader will at once gather from the above extracts that the "gentleman from Winnebago" is the evil genius of the "gentleman

from Racine"—we mean the Racine *Advocate's* correspondent. It was the "smiling face" of the gentleman from Winnebago which blasted the hopes of Mr. Marshall M. Strong for the speakership. It was his "approbation" which rewarded General Smith in his attack upon Messrs. Strong and Ryan. It was his "self-satisfied countenance" which was particularly noticeable in the result of the bank debate. And it seems to be his "smiling physiognomy" which haunts the imagination, disturbs the dreams, and paralyzes the exertions of worthy Mr. Ryan from Racine. We suppose the truth of the matter to be that Governor Doty's talents and experience have won for him the confidence and respect of many members of the convention, and that some gentlemen who aspired to the leadership of that body have found themselves unexpectedly thrown into the shade. *Hinc illae lachrymae.*

#### RYAN ON BANKING

[October 23, 1846]

The preposterous report of Mr. Ryan on the subject of banks and banking catches it all round. Even the Southport *Telegraph*, published in Mr. Ryan's own county and a prominent organ of the "hards," does not hesitate to denounce it as equally unwise and impracticable. We annex a portion of the *Telegraph's* article, which in our judgment offers an unanswerable argument against the adoption of any such crude system:

An abstract of this report will be found in another column, and at the risk of being called a "soft," we must express our dissent to it in the main. We yield to no man in our hatred of modern banking and the belief in the vicious tendency of all banking systems; but the report out-Herods Herod, and if we may use a vulgar phrase, runs the thing into the ground completely. Should its provisions be adopted, of which we imagine there is not much danger, it would, it seems to us, be inoperative in its very nature and fail to accomplish any of those ends which the author thinks and which really are desirable. We were in hope and we do not yet abandon the hope by any means that the convention in its action will recognize some little ability on the part of the people to take care of themselves and not thrust legislation into every transaction of life, of whatever character. The author of this report, like most others, has become possessed of the idea that the substance of the people will be eaten up, root and branch, unless there be stringent legislation to prevent it. Now this legislation is the very thing the people don't want. They want to be let alone; and when this convention guards against the granting of any special privileges to any man or set of men in community, in our opinion, it has done its whole duty, whether to the Democracy or to the state at large.

Democracy, in brief, in our opinion, consists in just as few laws and few restrictions as the intelligence of the people may make necessary; and it strikes us as exhibiting a very considerable want of confidence in the capacity of the people to guard their own interests when such provisions as are contained in this report are

sought to be enacted. Let us have free trade in this as in everything else. Grant no special privileges to any man or set of men, but let all depend on their own abilities, their own means and resources.

### THE FIRST STEP

[October 26, 1846]

The first step in the work of framing a constitution for Wisconsin was taken by our convention on Monday last, in the adoption of the article on banks and banking. We published this article in full with the vote by which it was adopted in our last number. We desire at present to call the reader's attention to some of the more glaring inconsistencies and objectionable features in this proposed constitutional interdict against all banking institutions and associations and all bank paper. The first section provides that there shall be no bank of issue in this state; the second prohibits the legislature from passing either general or special laws whereby individuals or associations can be authorized to enter upon the business of banking, and the third prohibits any corporation, institution, person or persons, from making or issuing any note, bill, certificate, etc., intended to circulate as money, under any pretence whatever. These three sections together are, as it was intended they should be, a complete barrier against the business of banking in Wisconsin. If they shall be adopted by the people, our future state will be deprived of all the advantages of a good local currency and of an active banking capital. As inevitable consequences of the scarcity of money which such legislation will produce, our farmers must look for small prices, our laborers for low wages, and our merchants for limited sales. If they are ready for such results and anxious to secure them they have only to swallow the "hard" pill prepared for them by the political quacks at Madison.

The fourth section goes further in the path of "progressive democracy" than any we have yet seen. Not content with absolutely prohibiting all banks of issue, the convention propose by this section to interdict corporations from "receiving deposits, buying bills of exchange, or doing any other banking business whatever." This, we take it, was introduced for the special benefit of the Wisconsin Marine and Fire Insurance Company, which has been the butt for the clumsy artillery of the "hards" these three years past. They have now hit upon the notable scheme of a constitutional prohibition in order to kill it off, and expect the people to assist in taking another lick at it. Dignified business truly!



The fifth section prohibits the establishment of any bank agency within this state, which, as the fourth section prohibits all banking business whatever, would seem to be rather superfluous; for of what use would an agency be if it could transact no business?

The sixth section in the estimation of the "hards" is no doubt the gem of the whole article. It prohibits the circulation within this state of any bank note under \$10 after 1847, and of any under \$20 after 1849. This, undoubtedly, better than any other section illustrates the statesmanship and exposes the hypocrisy of the men by whose votes it has been adopted. They claim to be exclusively the friends of the poor and the workingman. Yet here is a constitutional enactment aimed especially at these classes. "Pains and penalties" are denounced against the poor man who shall pay or receive a three, five, or ten dollar bill, while his rich neighbor who handles his twenties and fifties passes "scot-free!" The smaller denominations of bank bills are intended for the accommodation of the mass of the people; the higher ones for the convenience of a few large dealers. Yet our "democratic" convention permits the latter and prohibits the former! The poor laborer, to whom the temptation of receiving a one or two dollar bill for work done may well prove irresistible—the farmer, who for the sake of a quick sale will take pay for his produce in three, five, or ten dollar eastern bills which he knows to be good—these men are to be heavily fined and cast into prison, while the capitalist, the wholesale merchant, and the large dealer, who commit the higher offense (if paying bank bills is to be declared an offense) of paying twenty, fifty, and one hundred dollar bills, are protected by the very law which punishes the laborer and the farmer. And this is called "democracy!" Nay as if that term was not comprehensive enough to express all the love and affection for the dear people which our constitution makers affect to feel, it is christened "progressive" democracy! "Democratic"—to punish by fines and imprisonment the passing of a ten dollar bill, while passing a twenty is declared not only legal, but constitutional! What do the people think of such legislation? What will they say to the men who with professions of "democracy" upon their lips have adopted an article so unjust, unequal, oppressive, and illiberal?



## THE CONVENTION CRITICIZED

[October 28, 1846]

Whatever hopes the people may have originally entertained of any good results from the convention now sitting at Madison must have been well nigh dissipated by the actions and arguments which have marked the course and characterized the discussions of that body thus far. Starting with the most lavish and uncalled for professions of democracy, of love for the dear people, and of a single desire to do everything in the right spirit and for right purposes, the majority have from the very outset given the lie to all these fair promises by the conduct which they have seen fit to pursue. On the only two subjects which have as yet engaged their attention they have manifested a signal disregard for the wishes and welfare of the people and have trampled under foot the plainest principles of that "democracy" which they have been so ready and eager to profess. The article on banks and banking, which they have made such hot haste to adopt, is not only absurd and impracticable in itself, but in flagrant violation of "equal rights" and a wide departure from the "democratic" standard. If it be an offense worthy of stripes and bonds to pass a five or ten dollar bill of any state bank, by what process of reasoning have our sapient legislators arrived at the conclusion that the paying or receiving of a twenty dollar bill on the same bank not only calls for no punishment, but actually merits the protection of a constitutional enactment? If the circulation of bank notes is to be prohibited at all, why not prohibit it altogether? Why proscribe the small bills and permit the larger ones to pass unquestioned? Why issue an interdict against the smaller denominations of bank paper, the currency of the masses, and in the same breath grant plenary indulgence to the larger ones, which are rarely seen or used except by the capitalist, the money lender, or the wholesale dealer? Upon what principle of "equal rights" is such a distinction made? By what rule of "democracy" is this line drawn? Where does the convention find warrant for undertaking to say that no corporation shall receive deposits; that no association shall buy or sell bills of exchange; and that no individual shall follow the business of banking? If they proscribe this, have they not a like right to proscribe any and every kind of business? If it is democratic to say to one man, "You shall not issue your notes, no matter whether your neighbors are willing to take them or not," is it not equally

democratic to say to another, "You shall not lend or borrow money," and to a third, "You shall not sell on credit or buy on time?"

It must have been evident to every member of the convention that on the subject of banking there was great disparity of views both in and out of that body; and that if it was desirable to frame a constitution which should command general approbation and assent, a question like this, upon which the convention itself differed so widely, should have been left to the decision of the people. This was the course contemplated by Mr. Tweedy's amendment. Conceding at the outset that chartered monopolies and special privileges were not to be tolerated and that no system of banking whatever should be forced upon the people without their consent Mr. Tweedy proposed to vest the power in the legislature to pass a general law, subject to approval or rejection by the qualified electors of the state. If, as the majority in the convention profess to believe, the people of Wisconsin are opposed to all banking systems, the result of the proposed vote would have confirmed the correctness of their views and put the question at rest. If, on the other hand, as we believe, the people of our territory desire the establishment of a sound system of currency and finance, the Progressives in the convention, if they are really the Democrats they profess to be, must have frankly admitted their error and cheerfully acquiesced in the decision of the majority. That they refused to submit the question to the popular ordeal shows that they doubted the soundness of their own views or that they distrusted the intelligence of the people. And we are left to infer that the determination of the majority of the convention is to force the people to accept the constitution precisely as they may choose to frame it or else to reject it altogether.

Still more glaring and reprehensible is the inconsistency of the course pursued by the majority on the vital question of the right of suffrage. Professing to believe that this is a natural right and [one] belonging to all men alike, they have wholly proscribed one class of citizens and upon the very ground that the institution of slavery is defended at the South, viz., that colored men, if men at all, are an inferior race and were designed by the God of nature to be subject to the whites! Nay, further, not content with doing this wrong themselves, they have refused to allow the people an opportunity to repair it by voting down the proposition of Mr. Burchard to submit the question of free suffrage to the decision of the electors. Here again is the same determination on the part of the Progressives manifest to compel the people either to take the constitution just as

these miscalled "Democrats" may choose to frame it or not to take it at all. For one, so long as two such odious and antirepublican features disfigure the instrument which the convention is about to offer to the people, if we voted alone, we would vote against it. But we have the strongest reasons to believe that the handiwork of the "Progressives," if it remains in its present shape, will be condemned and rejected by a large majority of the people.

#### AN UNFOUNDED IMPUTATION

[November 2, 1846]

During the debate in our convention on the currency question Mr. Prentiss of Jefferson, whose "Democracy" we have never heard questioned, objected to the indiscriminate warfare against all banks and bank paper, which some of his colleagues seemed determined to wage, and strongly urged the impolicy as well as injustice of so tying up the hands of future legislatures as to deprive them of all power to permit banking with proper guards and under proper restrictions, even should the circumstances and necessities of the people require it. Mr. Dennis, one of his colleagues, expressed his astonishment to hear such sentiments from the representative "of as hard a constituency as any in Wisconsin," and Mr. Geo. Hyer, another representative of this "hard constituency," is reported to have spoken as follows:

"The county of Jefferson as regards the paper currency was unfortunately located. It is an interior county, just far enough from the brokers and money shavers of Milwaukee to share largely in all the fraudulent and broken bank paper in which the money brokers of that city are speculating—an imposition to which they will be subjected so long as bank paper is permitted to circulate as a currency; and it is far enough from the mining district not to be benefited by its hard money currency. The people of that county are an agricultural people, and their principal product is wheat, which, if they wish to raise money on, they are obliged to take to Milwaukee to market. There is no other cash market within their reach, and here they are paid off in miserable rags, to convert which into money, gold and silver, they are obliged to suffer a shave of three or four per cent."

This charge against the wheat buyers of Milwaukee is innocuous because utterly without foundation. Such missiles to be effective should be tipped with truth, an article for which Mr. Geo. Hyer seems to entertain no great respect. The money paid out in this



city for wheat is good bankable paper or specie. The "miserable rags" and the "three or four per cent" shave are creations of Mr. Hyer's imagination.

If Jefferson County or any other portion of our territory suffers from "fraudulent and broken bank paper," they may thank Loco-foco legislation for it. Our rulers here in their wisdom have decided that we shall have no bank currency of our own. Hence Wisconsin has become a sort of city of refuge for the depreciated currency of other states. And this state of things the "Progressives" at Madison are desirous to perpetuate. They seem intent upon shutting the door against the introduction of any more capital into Wisconsin. And the strangest part of the whole matter is that they expect to help the farmer and laborer by such legislation! Why, there is not a farmer or laborer in our territory but can tell these sham Solomons that where capital is limited and money scarce the prices of produce and the wages of labor must be comparatively low. Look at the quotations here for wheat during the last few days. It is now worth eighty-eight cents in Buffalo and should be worth sixty-two cents here. But 52 a 54 is all that the farmer can get for it. Why is this? Simply because freights are so exorbitant, money so scarce, and the rate of interest so high here that our dealers think they can't afford to pay any more? What is the remedy? Competition—more vessels, more wheat buyers, good banking institutions, and a sufficient local currency. Without these the farmer and the laborer will look in vain for adequate remuneration, and yet it depends upon them to say whether we shall have them or not.

#### MISDEEDS OF THE CONVENTION

[November 17, 1846]

This body, not yet weary of ill doing, has just furnished another proof of its utter incompetency and palpable disregard of the wishes of the people. By reference to the letters of our correspondent it will be seen that the single district system has been rejected, and the old mode of electing representatives from large districts adopted instead. This is another black mark against "progressive democracy"—or rather, another evidence that the majority at Madison belie by their acts the professions which they make with their lips. The single district system is so manifestly the best, the fairest, and the most democratic mode of electing representatives that the whole press of our territory had taken ground in its favor. The committee to which the subject was referred were equally unanimous



and until we received the letter of our correspondent we never dreamed that the convention would go back to the old system. But it seems that some of the "progressive" managers feared the political effect of adopting the single district system. If the people were allowed to choose their representatives directly, these honest gentlemen were apprehensive that too many Whigs would be elected. There would be less chance, too, for caucuses, logrolling, barter, and sale, and the other appliances in which these politicians delight. Nor could party management avail to carry two or three bad nominations by hitching them to one good one. Each one must stand or fall by itself. In a word, the people would have too much to say, and the leaders too little. Hence the sudden change of front in the convention. Hence Mr. Marshall M. Strong's "crawfishing" on this, as on the free suffrage question. And hence the rejection of the single district system. But we trust to the people to right this and other wrongs perpetrated at Madison by placing the seal of their condemnation upon the authors of the evil and upon the botch of constitution which they are framing. In its present shape it does not stand the ghost of a chance of being adopted. If the convention obstinately refuse to modify it in such a way as to meet the public wish and expectation, upon them be the responsibility of its defeat.

## CRITICISM OF THE CONVENTION

[November 23, 1846]

It is with great regret we find fault with a convention elected as a democratic body, but we must say that our convention has sadly disappointed us and has we believe disappointed a large majority of those who voted for the sitting members of the present body.—*Racine Advocate*.

The convention finds no favor in any quarter. The friends of the political majority in that body are just as much dissatisfied with the proceedings as its opponents are. The *Racine Advocate* is by no means the only one of the Locofoco presses which avows its disappointment and expresses already its fears that the constitution will be rejected. But the *Advocate's* reasons for this belief are certainly original. It objects to the banking article as not sufficiently stringent; to that in reference to internal improvements as permitting the state to lend its aid to such works; and to that on corporations that such monstrosities are permitted at all! Now, in our judgment, the chief source of the prevalent dissatisfaction with the doings of the convention is the action of that body on the subject of currency and banking. They have attempted to set up a new standard of "democracy," which all true party men are expected to swear by. They have not only proscribed all banks within our territory, but they have undertaken to prohibit under severe penalties the circulation of bank notes from other states. And in this attempt with characteristic inconsistency they have discriminated in favor of the rich and against the poor. The man who gives or takes a small bill is to be punished like a thief, while he who deals in twenties and fifties goes scot-free. The absurdity as well as injustice of such a provision is too obvious to require comment. What sort of right have the convention to interfere in the matter at all? If we choose to take a two dollar eastern bill from a subscriber in payment for our paper whose business is it but our own? If a farmer coming in here with a load of wheat sees fit to sell it for four five dollar bills of a solvent New York bank, who shall gainsay him? What democracy is there in undertaking to bind men down as to what sort of money they shall receive or what they shall pay? And what but a piece of the grossest tyranny is it to denounce "severe penalties" against all who give or receive bank bills?

The Constitution of the United States makes gold and silver the only legal tender. That is all well enough. But it does not go further

and say that no man shall take anything else in payment of a just debt. It establishes a standard of value and there stops. The rest it wisely and properly leaves to the people themselves. Bank bills are convenient representatives of money. They simplify and cheapen all business transactions. Yet no man is obliged to take one of these bills unless he chooses to do so. He can, if he pleases, demand and exact the specie. But our Madison "Progressives," not satisfied with this, must do something more by way of signaling their hostility to banks and bank paper. Accordingly they have enacted that any man in Wisconsin may take or give a twenty dollar bill of the New York State Bank, for instance, but if he takes two tens or four fives of the same bank he shall be imprisoned and fined! And they expect the people to indorse this piece of unmitigated absurdity! In other words they think the people as great fools as themselves. Assuredly they will find out their mistake and that right speedily.

#### A VISIT TO THE CONVENTION

[November 24, 1846]

Business having called one of us during the past week to Madison, we had the pleasure of seeing, in a body, in solemn conclave, those who were sent to represent the people and to frame a constitution for their acceptance. Its solemnity was no doubt produced by several causes, amongst the most prominent of which seemed to be the voice that had been heard from the people of all parts of the territory in regard to their foolish and wanton measures. There appeared, however, amidst the gloom that hung over them a determination to do right, to take the back track, or, in more modern phrase, to "crawfish." Many of the members had traveled and seen their constituents, and a world of light has broken in upon the convention in consequence. The most ultra measures are to be reconsidered, and from all we could learn more moderate and acceptable ones will be adopted in their stead. The bank article, we think, will be so modified as to leave the question of banks and bank notes to the people direct, or to the legislature, and we feel assured that the single district system will be adopted. Altogether, from the signs we perceived, there is an honest desire among many of the members to know and do what the people want, and if the objectionable features in regard to banks and representative districts are only removed and there should be adopted a good judiciary system, we see no good reason for rejecting the constitution but many in favor



of its acceptance, as the less important objectionable measures can easily be modified or stricken out at some future day.

We were struck with the apparent youthfulness of the members of the convention; there are but two whose appearance would allow us to call them venerable; we saw many, however, whom we should call infants, and we doubt much whether it is known "that they are out." Mr. Ryan is the greatest talker and sometimes says good things, but his influence is mostly gone with the convention. Mr. Tweedy is gaining the respect of the whole convention. He speaks frequently, also, but it is to the point. He is always listened to with attention, and he has an influence there perhaps possessed by no other member. We had the pleasure of hearing him on the subject of the organization of our judiciary, and Mr. Tweedy must certainly have been gratified with the very general attention paid to his remarks by all the members of the convention. One of the leaders of the Locofoco party characterized Mr. Tweedy's speech as the best yet made in the convention.

#### A GOOD DAY'S WORK

[December 8, 1846]

We are happy to have occasion to speak in praise of the doings of the convention. The action of that body on Thursday evinces very decided symptoms of returning reason. The judiciary article has been passed in good shape. The article on schools, amended in two important particulars, has been ordered engrossed. The question as to the organization of the legislature has been well disposed of. Last, and best of all, the single district system rejected a fortnight since by a considerable majority has now, thanks to the efforts and influence of Mr. Tweedy and other true friends of the people, been adopted by the decisive vote of yeas 60, nays 41. It will be seen that every member from this county, to their praise be it said, voted for this truly republican measure. Now let the convention strike out the odious and antirepublican features of the bank article, or leave that article to be voted upon separately by the people, and there may yet be hope that the constitution may be ratified by the people. If the pride of opinion is not stronger with the majority of the members than the desire to see the constitution adopted, they will agree upon one of the alternatives here suggested.

## THE SINGLE DISTRICT SYSTEM REJECTED

[December 10, 1846]

Those of our readers who have watched the course of the convention will learn without surprise, if not without regret, that this dignified body, which on Thursday last adopted the single district system by a vote of 60 to 41, on the very next day "crawfished" on the question, and by a vote of 53 yeas to 47 nays struck out the section which they had just passed. The letter of our correspondent<sup>11</sup> throws some light upon the means and appliances which were used to effect this change. The party screws, it will be seen, were brought to bear upon every weak brother, and though some, to their credit be it said, stood firm, enough yielded to the pressure to render the attempt of the "progressive" leaders successful. We subjoin the names of the ten delegates who on Thursday voted for the single district system and the next day voted against it: John M. Babcock, Cruson, Graham, George Hyer, N. F. Hyer, J. Kinney, Madden, Sewal Smith, Soper, and Moses M. Strong.

Of these, Moses M. Strong voted for the measure on Thursday with a view to make a subsequent motion for reconsideration. The others voted for the section on Thursday, after a full and able discussion, and undoubtedly because they honestly believed the single district system to be right in itself, and not only acceptable to but asked for by the great body of the people. Yet these ten men (remember them, reader!) came into the convention the next morning and without debate or explanation voted to reconsider the article and then lent their aid to destroy what only the day previous they had helped to adopt. Nay, two of them, the Hyers, have the impudence to pretend that after voting in favor of the measure they had suddenly discovered that it was "antidemocratic"! Antidemocratic to break up those large delegations of ten or twelve from a county and resolve them into the simple republican element of single districts! Antidemocratic to take away the selection of representatives from packed conventions and party caucuses and give them directly to the people! Who credits this shallow pretence, or who can doubt that the main reason for the convention's sudden change of front was the desire of some of the leaders to keep the selection of members of the legislature as much as possible under the control of the party machinery? Will the people consent to be thus robbed of a political birthright, in order to advance the claims and aid the aspirations of drivelers and demagogues?

<sup>11</sup> For this see *supra*, p. 97-98.

## THE EXEMPTION ARTICLE

[December 14, 1846]

The letter of our Madison correspondent in yesterday's paper<sup>12</sup> announced the fact that the convention on Monday last adopted by a decisive vote an article giving new rights of property to married women and exempting from execution or forced sale a certain amount of land or town lots. The article, as adopted, reads as follows: \* \* \*

It was passed, as we stated yesterday, by a vote of 61 yeas against 31 nays, but a glance at the division list will show that while numbers were on one side, the character, ability, and influence of the convention were on the other. Whatever were the intentions of the framers of this article, we cannot but think that its adoption by the convention and its incorporation into the constitution will be attended with the most mischievous effects. To the first section—its letter as well as its spirit—we are utterly opposed. It establishes different interests between the husband and the wife. It makes those twain whom God's holy ordinance has pronounced one. It affords little advantage to the wife of the honest man, while it holds out to the dishonest husband the means and temptation to fraud. It is, moreover, impracticable to itself, for by what process shall the personal property of the wife be distinguished and kept separate from that of the husband?

To the second section there are equally strong objections. It makes the exemption unlimited. Every man is allowed to select for himself the forty acres which are to be exempted from forced sale or execution. He can locate them where he pleases, and the constitution undertakes to protect them whether they be wild land, or have upon them improvements to the value of thousands of dollars. It is objectionable in principle and will be unequal in practice. The rich swindler, who has piled up all his ill-gotten gains upon his chosen forty acres, his individual city of refuge, will be as fully protected as the honest poor man who only asks that his humble homestead may not be wrested from him, when his other property is seized to pay a debt. It throws wide open the door to fraud, and offers a premium to the man who can cheat his creditor with the most dexterity. Its influence abroad will yet be more disastrous than its effect at home. It will utterly destroy credit and most effectually deter Eastern capitalists from seeking investment in

<sup>12</sup> For this letter see *supra*, p. 100.



Wisconsin. In every point of view we regard the article as most injurious to the interests, the character, and the growth of our territory.

We are glad to see the Madison papers of both parties unite in condemning this article in the most strenuous manner. The *Argus* says of it, "We regard this as the most outrageous act ever passed by a legislative body, in this country, at least." Such, in truth, it is. And fittingly was it ushered into being. A caucus of its friends was held on Sunday night in the library of the capitol, "Deacon" Baker of Walworth presiding, in order to count noses and screw up the courage of a few doubters to the sticking point. This machinery succeeded in forcing the obnoxious article through the convention, but we will not permit ourselves to believe that so monstrous a wrong can receive the deliberate approval of the people.

#### SUNDAY CAUCUS

[December 14, 1846]

We learn from unquestionable authority that a caucus was held in Madison on Sunday evening last by the friends of the exemption and married women's article. Fifty-eight members, we learn, were present, but as we do not know who they were, we publish the names of those who voted for the article: \* \* \*

If any of these gentlemen were not present on the occasion, we will be happy to afford them an opportunity of denying it over their signature. The most remarkable feature of the whole proceeding is that the chairman was Charles M. Baker, who, we understand, is a member of the Presbyterian Church in full communion. Other professing Christians were undoubtedly present, and we leave them to their own consciences and the discipline of their respective churches. The article itself is a disgrace to our territory, and perhaps it is proper that it should be caucused into being by a violation of the laws of God—an outrage upon the moral sense of the community. What opinion can we form of the constituents of such members? What can we think of a provision in the constitution which could not have been adopted except by drilling the members at a caucus held on the Lord's Day? Some of the members from this county, we are sorry to say, voted for this singular article, and we hope they will publicly deny, if such be the case, that they were present at this caucus.

SELECTIONS FROM THE MILWAUKEE *COURIER*

## VIEWS OF A "DEMOCRAT"

[October 28, 1846]

MR. EDITOR: Permit me through the columns of your admirable paper to speak the sentiments of a large majority of the Democrats of Wisconsin in reference to the convention at Madison and its duties and obligations. During the time that body has been in session a warfare has been carried on between the two sections of the Democratic party in this territory, the result of which, there is reason to fear, will be to defeat the object of the convention and to render that object unattainable for several years. If such should be the case, if a constitution should be framed in which are incorporated by design provisions which would cause its rejection by the people, the guilty parties will be held responsible for that result, and the people whose will and pleasure have thus been thwarted and disregarded by their representatives will be slow in forgetting those who are so neglectful of their duties. The people have a right to expect and demand at the hands of their representatives a full and fair discharge of their duties. Elected by their votes for the attainment of specified and well-known objects, their powers are limited and they are acting in the capacity of agents and cannot transcend instructions. But if, as may well be apprehended, a portion of the members of that body are so recklessly selfish as to oppose every measure that does not directly benefit themselves and friends to the prejudice of the mass of our citizens, and if in the event of their being unable to exercise unrestricted influence on the action of the convention they make a desperate effort to engraft upon the constitution principles which are obnoxious to the people and which would therefore render it objectionable to them—if they pursue this course, I say—they will in addition to defeating the just expectations and avowed wishes of the citizens of this territory dig their own political graves to which their indignant constituents will consign them without a tear. Such a result would be deplorable. It is the last thing I could wish to see. Union of feeling, sentiment, and action should characterize the Democratic portion of that body, and a constitution should be framed adapted to the present condition of society and the necessities of our citizens. In respect to our organic law we ought with the examples of other states before us to lead them all and make ours a model worthy of imitation. And this is the great work the convention has before it—to do this its

members were elected by the sovereign people of this territory, and they should act as becomes representatives in conformity with the expressed and implied wishes of their constituents. Let no personal feelings mar the harmony that ought to exist in and distinguish that body. Every consideration of a private nature ought to be sacrificed to the attainment of the desired object, and that member who will not make this sacrifice, if necessary, will deserve the doom which will most surely await him. Then let those demagogues who are laboring for themselves instead of acting the parts of patriots and honest men beware lest they may incur the vengeance of those with whose interests they are trifling. The result of the labors of the convention, be it remembered, is to be submitted to the people for their approval and must undergo a rigid examination. If it meets their expectations and is in accordance with their wishes it will be heartily approved and its authors amply rewarded. But if they are compelled by a just regard for their own and the interests of posterity to condemn it, then will the position of those members who have traveled out of the pale of their instructions be unenviable. I say, then, to those who have grown gray in office and are now assuming to themselves the right to dictate the convention, beware. The eyes of your constituents are upon you—they know and properly appreciate your motives, and they know, too, that you are answerable to them for your doings.

DEMOCRAT

### THE CONVENTION—BANKS AND BANKING

[October 28, 1846]

Our neighbors of the *Sentinel and Gazette* appear to be pretty much out of humor with the convention for adopting the article on banks and banking (which we publish in another column) and can see nothing but low prices for farmers and merchants and low wages for laborers. All this would be very horrible if true. But do not the editors' fears arise more from fancy than fact? Their love for paper money is all very natural to them, for they were "to the manner born" and have ever lived within the range of bank bills. We really believe that one of Uncle Sam's "mint drops" would be regarded by them as mere dross compared to a bank-paper "promise to pay." Everyone to his liking, however; we will not object to their fancying what they please; but we must say that we much prefer the constitutional currency of our country to that furnished by the "rag barons" of the land.



There are portions of our country where the people live, breathe, and prosper without the aid of paper money. Take for instance the western part of this territory, the northwestern portion of Illinois, and the whole of Iowa. In these regions scarcely a bank bill can be found, and when one does get among them it is immediately dispatched to a paper money community as a thing that is out of place. The aversion to a paper currency is general—we may say, unanimous—among all classes of people there; the merchant, the miner, the farmer, the mechanic, and the day laborer alike repudiate them, and the consequence is they have a currency of gold and silver, the stability of which allows every man to lie down at night with the full assurance that all will be well when he rises in the morning. This can never be felt by those who depend upon banks and paper money, as thousands and tens of thousands of our people can bear testimony.

But the *Sentinel* goes on as follows:

The sixth section in the estimation of the "hards" is no doubt the gem of the whole article. It prohibits the circulation within this state of any bank note under \$10 after 1847, and of any under \$20 after 1849. This, undoubtedly, better than any other section illustrates the statesmanship and exposes the hypocrisy of the men by whose votes it has been adopted. They claim to be exclusively the friends of the poor and the workingman. Yet here is a constitutional enactment aimed especially at these classes. "Pains and penalties" are denounced against the poor man who shall pay or receive a three, five, or ten dollar bill, while his rich neighbor who handles his twenties and fifties passes "scot-free!" The smaller denominations of bank bills are intended for the accommodation of the mass of the people; the higher ones for the convenience of a few large dealers. Yet our "democratic" convention permits the latter and prohibits the former! The poor laborer, to whom the temptation of receiving a one or two dollar bill for work done may well prove irresistible—the farmer, who, for the sake of a quick sale will take pay for his produce in three, five, or ten dollar eastern bills, which he knows to be good—these men are to be heavily fined and cast into prison, while the capitalist, the wholesale merchant, and the larger dealer, who commit the higher offense (if paying bank bills is to be declared an offense) of paying twenty, fifty, and one hundred dollar bills, are protected by the very law which punishes the laborer and the farmer.

The above may have been written in candor, but it is, nevertheless, a gross perversion of the intent and meaning of the convention. It cannot fail to strike every reader at once that the object of this provision is to protect and not to punish the poor man; it is designed to furnish him a gold and silver currency which cannot depreciate or become worthless. The poor man, who receives his dollar for his day's labor, has enough to do to provide for his family without spending his time in ascertaining what bills are good or what are bad; consequently he is liable to lose on every bank note he receives,

either by depreciation, fraud, or failure of the bank. To remedy this evil the constitution proposes to prohibit the circulation of small bills and thereby furnish a specie currency for the wants of the poor man. Nothing is more certain than that the vacuum created by the withdrawal of small bills will be filled by specie—the laws of trade will teach everyone this.

The case of the rich man is widely different from that of his poor neighbor. The very nature of things renders him less liable to imposition and loss. He handles his twenties, his fifties, his hundreds of dollars daily; consequently he is a better judge of paper money than the poor man who handles but a dollar. It is conceded on all hands that bankers are better judges of bank notes than merchants and that the latter are better judges of the same than farmers, mechanics, or laborers. This is consequent upon their respective occupations; the two former classes, being more familiar with bank paper, can more readily detect worthless notes than the latter; consequently they lose less. Besides, the heavy operator does not retain in his hands any particular kind of notes more than a few days at most, but keeps his funds active, and thus he runs less risk of bank failures than the farmer who lays up the avails of his crops to meet the current expenses of the year. In almost every instance, too, the merchant, the banker, and the speculator pay their current expenses out of the poorest funds in their hands, so that when a bank becomes doubtful its notes immediately change owners and at last fail in the hands of the poor man, who is least able to bear the loss. There is no use in dwelling upon this fact, for all business men are too familiar with it to dispute its truth. The clause in the constitution does not presuppose that the poor man will persist in receiving and passing the prohibited notes when their places are supplied by specie. So that the "pains and penalties" spoken of by the *Sentinel and Gazette* are mere moonshine as far as they "are denounced against the poor man." The design is to exclude all small bills and not to punish the poor or allow the rich to go scot-free. If specie fills the place vacated by small bills under the operation of the clause above referred to, and there should be found among us those, whether rich or poor, who would violate the law by aiding in keeping small bills in circulation, they should be punished, and, if necessary, cast into prison.

We regard the provision against small notes as a wise one and one that will save to the poor of Wisconsin hundreds and thousands of hollars in the aggregate, yearly. But we differ wholly and totally

with the position of our Whig neighbors that small notes "are intended for the accomodation of the mass of the people." They look to us more like being designed to wrong the mass of the people.

### ARGUMENTS AGAINST BANK CURRENCY

[November 18, 1846]

The sentiments of the citizens of this territory are unfavorable to the use of paper money—and, in accordance with their wishes, the organic law of Wisconsin will prohibit banking and the circulation of bank notes.

The credit of taking this bold and decided stand against the banking system is due and will be awarded to us. Other states will follow in our wake, and the time will come when paper money with all its pernicious influences will be banished from the country. That time will be the commencement of a new and happy era in our national existence, and we may hail it as the harbinger of other reforms of equal importance. The people have long enough struggled against the evil effects of banking and are becoming convinced that they can have a safer, better, and more convenient circulating medium than mere evidences of debt or promises to pay. The frequent failures of banks and the consequent losses of the bill holders have led men to inquire into their manner of doing business and to ascertain their responsibility; and in the course of this examination they have been able to trace the artificial inequality of wealth, much pauperism and crime, the low state of public morals, and many of the other evils of society directly to this system.

Every unprejudiced mind, on a thorough examination of this subject, must come to the following conclusions:

First. That it is unjust and contrary to the spirit of our republican institutions to grant privileges to companies which are not enjoyed by individuals, and to exempt them from liabilities to which individuals are subject.

Second. That the incorporating of paper money banks is, in fact, legalizing usurious dealings, inasmuch as these institutions, basing their operations on a comparatively small capital, issue a large amount of bank notes, on which, instead of paying interest as individuals do on their notes, they receive interest from those who have exchanged for them a valuable consideration.

Third. That the banking system has a tendency to invert the natural order of things and to reward indolence and profligacy with wealth, and industry and frugality with abject poverty and haggard



want. And while it has this unjust and unnatural effect, it is raising up in our very midst a powerful and dangerous aristocracy, which is repugnant to every principle of American freedom, and the influences of which reach every branch of the government and every interest of the people.

Fourth. That in paper money governments the honest and hard-working producers of wealth constitute the poorer classes—very many of them wanting the comforts and necessaries of life—while a few designing and dishonest men, who produce nothing, amass immense fortunes and live luxurious and easy lives.

Fifth. That frequent “expansions” and “contractions” are ruinous to trade and commerce and productive of general bankruptcy; and that bank directors and their favorites not only escape the almost inevitable ruin that comes upon the business of the country in consequence of these bank maneuvers, but are enabled by their knowledge of the approaching storm both to shield themselves from its pelting and to gather together the wrecks of other men’s fortunes.

Sixth. That the necessary consequence of this system is to break up that social equality which is the legitimate foundation of our institutions, and the destruction of which would render our boasted freedom a mere phantom.

Seventh. That the business of the country can be done without the use of bank notes, and that a demand for gold and silver will produce a supply, as surely as will a demand for any commodity produce a supply of such commodity.

Eighth. That the use of real money as a circulating medium would give permanency and stability to trade and commerce, render prices more uniform, establish a safe, convenient, and useful system of credit dealings, without causing it to be carried to a ruinous extent, and lay the foundation of permanent national prosperity.

These deductions, it is believed, are reasonable and logical; and besides, experience has taught us that they are true.

Since the organization of this government, no stronger barrier has been presented to our social and political advancement than our system of banking. Its effect has been to divide society into two classes—the few and the many. The former assume to be the “rich and the well-born,” and look upon the latter as the vulgar rabble, born to ignorance and poverty, and unworthy of a better condition.

This aristocracy, the legitimate offspring of money corporations, have no feelings in common with the people and no preference for our form of government.

Basing their political creed on the assumed ignorance of the people, they claim that they, on account of their affluence, education, and habits, ought to govern, and that the people, possessing neither the qualification of wealth nor learning, should submit to be governed. This odious aristocracy will exist as long as the notes of irresponsible corporations constitute the circulating medium of the country. Withdraw bank notes from circulation and it will die, as surely as the stream ceases to flow when its fountain is dried up.

A

## BANKS AND BANKING

[December 2, 1846]

The action of the constitutional convention in prohibiting the incorporation of banks and the circulation of foreign bank paper in the state of Wisconsin has raised quite a hue and cry among the "rag barons," and all sorts of dust are attempted to be thrown in the eyes of the people to blind them to their true interests upon this important question. We hope and trust the convention will not be misled in this matter by mistaking the clamoring of a few interested individuals for public opinion. So decided was deemed to be the will of the people upon this subject previous to the election of the delegates that compose the convention that we venture to assert that no man in the territory, however well qualified in other respects, and personally popular, could have been elected to this convention as a bank man. So decided was public opinion upon this question that the Whigs in nearly every district outpromised the Democrats in pledges against everything in the nature of banking. In accordance with this decided instruction from both parties, the delegates of the people have adopted an article by a vote of 80 to 24 to exclude banking of every description from the state of Wisconsin and making it the imperative duty of the legislature at its first session after the adoption of the constitution and from time to time thereafter to enact suitable penalties for any violation of its provisions. The article also provides that no bank note issued without the state of a less denomination than ten dollars shall be allowed to circulate after the year 1847; nor any bank note of a less denomination than twenty dollars after the year 1849.

We put the question to any honest man in the territory, if this is not literally what was demanded by the people. Were the Whigs of Walworth County, of Dane, and of Waukesha honest in their declarations, put forth for the public eye pending the election, of

determined hostility to banks and banking? Well, then, what evidence have we that they have changed their minds? Of what practical benefit would be the prohibition of granting bank charters in our state without excluding other states from imposing their paper promises upon us? The end which is proposed to be attained by this measure is to furnish the laboring man and all those whose money transactions are limited a pure and safe currency—a currency of coin, which shall not be subject to the caprice of favored bankites and shavers, unlike their paper promises, which possess a nominal value today, and tomorrow are as worthless as a last year's deer track. We know the ingenuity of these bankites and their sophistries with which they attempt to delude the people—their exceeding love and kindness for the producers, that induce them to provide a "better currency" than that which the Constitution of the United States declares shall be a legal tender. But the effect can only be judged by the fruits, and they are bitter.

With the examples of Illinois and Michigan and in fact every new state that has been admitted into the Union for the past twenty years, shall we shut our eyes and blindly follow in the wake to that rock on which they split and wrecked their prosperity and credit? We know the answer that will be made to this: "That we will provide a better—a more democratic—system." How know we this? Has not the history of those states taught us that the rascality of the few, who are determined to live upon the labor of the many, has been more than a match for the wisdom of lawmakers? When was there ever a more stringent bank law passed than the one under which the foul brood of wildcats was brought forth in Michigan? If the letter and spirit of that law had been complied with, the lifeblood of that rich state would never have been sucked out by such beasts of prey. But the law was only used as a covert to nurse the blood-sucking brood till they were brought to maturity, and then they came forth to devour, setting the law at defiance, or wresting it from its design as a shield to the people, and making it an instrument for robbery. Have we no ex-presidents and ex-cashiers of Michigan wildcat banks within our fair territory, watching the opportunity to play a new hand at their old games? Do the farmers and mechanics wish to see our young state bled by these fellows—to see the product of their labor absorbed by them—and to get in return promises to pay, which depend upon the breath of heartless speculators for their value that will be entirely worthless whenever the banker gets enough afloat to make it an object to fail?



Why has the tide of emigration flowed past the fertile valleys and rich openings of Michigan for the past six years and sought the shores of our own territory? Was it not because of the banking operations of that state, which have rested like a plague spot upon her? [And] now let us open the door to the same system and aid the few to deceive and cheat the many and we will as effectually paralyze the hand of industry and sap the energies of our people. The tide of emigration will roll past us, crossing the Mississippi; it will seek a region where labor is sure of its reward and not subject to the fickle chances of a speculator's conscience. But let us remain stern and steadfast in our resolution to make gold and silver the circulating medium, and our prosperity will know no check. Emigration will still seek our shores, our forests will fall before the hands of industry, and our plains and valleys will teem with abundance.

RESOLUTIONS OF DEMOCRATIC MEMBERS OF THE  
CONVENTION

[December 30, 1846]

At a meeting of the Democratic members of the convention held at Madison on the fifth day of December, 1846, it was resolved that a committee of fifteen be appointed to propose resolutions expressive of the views of the Democratic members of this convention and report to an adjourned meeting. The following named gentlemen were appointed on said committee by the chairman (except Mr. Bevans, who was elected by the meeting) to wit: Messrs. Moses M. Strong, Baker, H. Barber, Brace, Reed, Graham, A. Hyatt Smith, Ryan, W. R. Smith, Beall [Bell], O'Connor, H. Brown, Clothier, Hunkins, and Bevans.

At an adjourned meeting held on the twelfth instant the committee by Moses M. Strong, their chairman, reported the resolutions following, which were unanimously adopted, and ordered to be signed by the president, secretary, and members present, and published in all the Democratic papers in the territory.

*Resolved*, That we, the Democratic members of the convention, now about to bring its labors to a close and to send forth the constitution of the state of Wisconsin for the ratification of the people, deem it fitting at this time to address to our constituents some general declaration of the great principles which have governed us in our recent duties, and which we believe should govern the general action of our party.

*Resolved*, That these great principles, as embodied in the following propositions, we believe to be self-evident, to be essential to

the public welfare, and to be in a great measure the peculiar doctrines of the Democratic party; and that upon these principles we rest the claims of the constitution upon the suffrages of the people.

“We believe in government founded on the inherent rights of man and so constructed that man alone should be represented therein and all men equally.

“We believe in a just distribution of the powers of government, so that all the functions thereof should be effectually administered, and none so concentrated as to tend to oppression or abuse.

“We believe in deriving all the powers of government as directly as practicable and convenient from the people, and in a frequent recurrence to their choice of the public servants.

“We believe in a just restraint of the legislative power, which is prone to overgovern and to restrain man unnecessarily of his natural rights.

“We believe that all legislation should be founded on the eternal principles of right and truth revealed to the conscience of man—the law of God speaking by the will of the people.

“We believe in no monopolies, no exclusive privileges, commercial or financial, social or political.

“We believe in a sound currency over which there should exist no power of inflation or contraction save in the general laws of trade and over which none should be permitted to usurp the sovereign power of creating money.

“We believe in an exclusive restoration of specie to the smaller channels of circulation, from which it is now almost wholly driven by the indiscriminate circulation of small bank bills, to the peculiar loss of the productive classes, whose vocations do not afford the opportunities of a proper caution.

“We believe in restraining the action of government to its legitimate objects and in leaving to private enterprise the construction of works with which private sagacity and economy may be more safely trusted than the corrupt, lavish, and cumbersome machinery of state agency.

“We believe in depriving the state of a power which all states have abused, the indiscriminate and unlimited power of creating debt, by which the prosperity of the state and of the people is frequently lavished on the selfish schemes of speculators on public credulity.

“We desire to insure equal social and political rights to all of our blood and race dwelling amongst us.

“Equal liberal education at the public cost to the children of all, in common schools in which all may grow up together a common people.

“Equal and prompt justice to all men alike in the public tribunals.

“Equal, just, and humane protection to the social rights alike to debtors and creditors.

“Equal uniform protection to all the legitimate pursuits of man.

“Equal and unprivileged protection to all religious persuasions.

“These things we believe, and in our efforts to embody them in the organic law of our state we have endeavored so to frame it that the government shall be for the good and by the will of the governed and that all places of public trust shall be filled for the sake of the office, and not of the officer.

“*Resolved*, That while we make no pretensions to perfection in the work of our hands in which we are conscious that many just things may have been omitted and many errors may have been admitted, and while we ourselves retain, as is natural and necessary, many differences of judgment on what has been done and what has been left undone, we yet claim at the hands of our constituents a fair construction of the general merits of our work and a mature and candid judgment of its provisions accompanied by the constant reflection that while all human work must partake of error, a constitution amongst us, gathered as we are from all states and all lands, partaking of all national customs and national prejudices, newly come together, and as yet little assimilated in our habits of thought or action, must emphatically be a constitution of compromises.

“*Resolved*, That we commit our work to the greatest of all work, time, to develop alike its evil and its good, that the one may be amended from time to time as discovered, and the other may be cherished by our posterity forever.

“*Resolved*, That we recommend to our Democratic constituents, in the discussion of this constitution, as in all other things, union, concession, harmony, a devotion to our principles above all things, conciliation, and good will amongst all brethren of the same true and sacred political faith.

“*Resolved*, That all differences of opinion which have existed among the Democratic members of the convention in the arduous duty of embodying in a code of organic law their common principles, have been the free and natural differences of independent men and have left behind them no feeling unbecoming political brethren.



*Resolved*, That while we express our confidence and approbation of the present Democratic administration of our territorial government, we deem that we have been long enough in territorial vassalage, and that no light objections should now have weight to retard our prosperous and prospering territory from assuming her place of right in the Union and sovereign state and adding to the most glorious flag of the earth the last and we confidentially hope the brightest star of the old Northwest Territory.

A. HYATT SMITH, *Secretary*

E. G. RYAN

D. A. J. UPHAM

A. W. RANDALL

JAMES MAGONE

DANIEL HARKIN

WM. R. HESK

JAMES P. HAYS

JAMES M. MOORE

WILLIAM BELL

J. F. WILSON

CHARLES E. BROWNE

C. M. BAKER

JOHN CRAWFORD

JOHN COOPER

FRA. HUEBSCHMANN

PITTS ELLIS

ISRAEL INMAN JR.

J. S. PIERCE

W. W. GRAHAM

WM. HOLCOMBE

EDWARD H. JANSSEN

PETER A. R. BRACE

JOHN W. BOYD

H. C. GOODRICH

NATHANIEL DICKINSON

THOMAS JAMES

C. H. PARSONS

WM. H. CLARK

JOSEPH KINNEY JR.

DAVID L. MILLS

JOHN Y. SMITH

N. F. HYER

L. BEVANS, *President*

MOSES M. STRONG

F. S. LOVELL

GEO. B. SMITH

S. O. BENNET

WM. R. SMITH

M. MEEKER

PATRICK TOLAND

DAVID NOGGLE

SEWALL SMITH

SALMOUS WAKELEY

B. O'CONNOR

JOSEPH BOWKER

E. M. SOPER

THEODORE PRENTISS

HIRAM BARBER

WM. M. DENNIS

BENJAMIN GRANGER

JAMES B. CARTTER

AARON RANKIN

HIRAM BROWN

DAVIS BOWEN

WM. C. GREEN

GEORGE HYER

E. L. ATWOOD

HORACE CHASE

NOAH PHELPS

G. M. FITZGERALD

BENJ. HUNKINS

HORACE D. PATCH

SAMUEL T. CLOTHIER

GEO. B. HALL

W. I. MADDEN

SANFORD HAMMOND

SELECTIONS FROM THE RACINE *ADVOCATE*

## THE CONVENTION

[October 21, 1846]

The attention of all parties in our territory is now earnestly lent to the proceedings of our convention, and as a matter of course, with every variety of hopes and desires that the labors of such a body are calculated to bring before the mind. And this is right; the attention of our people should be unalterably fixed upon their labors, watching every movement and scanning every action with care and thoughtfulness. Our readers will have learned from the letters of our able correspondent at Madison that already the convention has commenced its labors, and that, short as has been the time they have been in session, yet has it been long enough to arouse and put on their guard the real friends of true progressive Democracy. This is well, for it is better that in the outset they be called upon to watch than that at the close they should be taken unawares.

The people of our county, of our whole territory, have in some of the proceedings been sorely disappointed; in the selection of the presiding officer and the appointment of the different committees their views have not been fully met, yet there need be no fears of the result, for, as our correspondent observes, "Whatever desire of success may have led men away from the usages of the party, the Democracy of the convention is too sound to lose sight of the principles of the party," and we believe him.

Here by the way and in allusion to this part of the convention's proceedings (the election of president) we may as well advert to a remark made by the Milwaukee *Sentinel*, which pleases to style the efforts of our worthy delegates, Messrs. Strong and Ryan, "a bad start," "a desperate effort to give a thorough party character to the proceedings from the outset"—no faint praise, indeed, when viewed as coming from the source it does. That the efforts of our delegates should have been in behalf of the principles of our party is no more than we all expected, but that those same efforts should have called forth the animadversions of our opponents at this early day is a result we had scarcely hoped for, though sincerely desired. Look at it. Here is a party that made every effort in its power to get the votes of the people for their own nominees on the ground that theirs were the true principles upon which to found a constitution for the

government of the state. They fail, and now as a last resort they turn round and say, "O let us have no party feeling," or in other words, "Though a majority of the people decided against us and our principles, yet we claim an equal weight with you in your body." What nonsense! What utter folly!

But to come back to the doings of the convention. After the election of the president and while the filling up of the committees was occupying the attention of the house our delegation was again called upon to support the Democratic principles and usages of their party against the underhand workings of their political opponents and a few misguided men of their own party who were deceived by the specious reasoning and conduct of these men; and well and ably did they do it. Their refusal to serve upon the committee on the judiciary is another proof that we may feel proud of the delegation from our county and rest assured that so far as they are concerned the people need have no fears for the result.

One thing more we would call the attention of our readers to particularly—the report of the committee on banking, to be found in another column—the first report made to the convention. The work has been done speedily and well, and we believe embodies the views and wishes of a very large majority of our people. If all the other committees are as earnest and industrious, we doubt not but we shall have a model constitution and one that shall fully express in all its provisions the meaning of the much-talked-of progress of the nineteenth century.

### BANKING

[October 28, 1846]

The Whig press throughout the territory is very savage upon the action of the convention in relation to banks and their privileges. This of course was to be expected and is very natural, coming as it does from a party that has always been in favor of banks in any and every shape, so long as they were banks; but the strangest part of their opposition now is that they do not pretend to fight against the prohibition to bank in this state, but against the stringency of that prohibition. Now if banking is as they virtually acknowledge an unsafe and dishonest thing, why not do so by enacting such laws that the rich and unprincipled swindler will not dare attempt to break them? But this is not their real objection. They know very well that the people do not wish banks, that the people sent their delegates to this convention with the full belief they would carry out



the principles of the party sending them, and now they fear that such will be the result. Our readers will recollect that previous to the election the Whigs of Dane County came out with a declaration of principles that were or seemed to be so opposed to their old faith it was said by some of our papers that they had stolen all the "Democratic thunder." Well, this declaration was copied by nearly if not quite all the Whig papers in the territory and commented upon in such manner as was intended to satisfy their opponents that they were as much opposed to banks as themselves, and that, indeed, they differed in nothing from the true Democracy but in the possession of all the "respectable and decent voters of the country." Now, then, our convention enact such laws as they believe, and rightfully, too, the people wish, and what is the consequence? The Whigs fly into a rage; they distort the language of the instrument; they aver that with such laws no honest man in the community is safe from state's prison; and that finally, if they continue as they have begun, the people will inevitably reject the constitution.

The people already in more than one instance have signified their will and pleasure in the matter of banks and we can assure our opponents, who are so much afraid they will reject the constitution on this ground, they need have no fears either one way or the other. The people have made up their minds to get along without banks and their promises to pay, to give and receive money, not rags, for their labor, and they will do it.

#### FAULTS OF THE CONVENTION

[November 18, 1846]

It is with great regret we find fault with a convention elected as a Democratic body, but we must say that our convention has sadly disappointed us, and has, we believe, disappointed a large majority of those who voted for the sitting members of the present body.

We feel satisfied that a very large majority of the people of this country are opposed to banks in any form, and also to the circulation of bank paper, whether manufactured at home or abroad. We feel also assured that a vast majority of the people are opposed to any works of internal improvement to be effected by the state and to any incorporations conferring upon certain classes of persons vast powers in order to enable them to effect certain objects ostensibly for the benefit of the whole people, but really for the benefit of those who ask these privileges.

Yet in these three important matters the convention has manifested a desire to leave openings through which the abuses opposed

by the people may be allowed to creep in, while at the same time the very members who attempt to play this game dare not avow themselves in favor of one of the measures they would willingly see winked at by the new constitution.

In the matter of banks: Almost all are of opinion that we do not want banks in the territory, and almost all the Democratic members of the convention feel that their constituents are utterly opposed to them. Yet the convention seemed terribly afraid of introducing the proposed penalties. And why? If it is determined that there shall be no banks, what harm could the penalties do? They could only prevent the issue of spurious paper, of paper made without even the responsibility of a banking company, and probably of paper made solely to defraud the unwary.

In this case, there must have been a desire among some of these members to avail themselves of bank facilities, and a consequent wish to introduce even the poorest kind of banks rather than have none at all, and those, too, even at the hazard of offending their constituents who had elected them with a wish that they should oppose all banks.

The opposition to works of internal improvement by the state is, we believe, very general—in fact nearly universal—and we do not see how it can be otherwise when we look at the difficulties that have surrounded all the new and almost all the old states that have ventured into these unfortunate, imprudent, and unjust speculations. It is true that there are some internal improvements that have been much lauded as channels of trade and even wealth, but they have brought with them evils of such magnitude that the good has been more than counterbalanced.

The objection to incorporated companies is also very general, and we believe the community is generally opposed to them unless under great restrictions, while the opposition of the Democratic party is even greater, much greater, than that of the whole community. Can this be wondered at? Look what they have done for other states! Look at the power these corporations hold and exercise over labor and the laborer at the East! Look at Michigan with its central railroad wrested out of its hands by a mammoth corporation that will be able to control the government and the people with its iron grasp until public opinion shall (unjustly perhaps) wrest from it the power so unadvisedly given, or shall perhaps hurry the people into excesses that will do great discredit to their character.

We hope yet to see a good constitution, for we think we see that many of those who have voted against the wishes of their constit-

uents are returning to their duties and to a sense of what is due both to themselves and to those who elected them. If so, little will be lost except time, and that can be pardoned. If they do not, it is highly probable the constitution will be rejected by the people, and certain that those who have misrepresented the people will be thereafter rejected at all events. The will of the majority has been made too plain on all these questions to admit of cavil, and those who prefer to bow to the money power rather than to represent the people may look to the former for a reward in money, but cannot look to the latter for a reward in future honors and the power of being useful to the new state.

We are happy to say that our delegation from Racine County is generally on the right side and more happy still to see that our members from this village are not only firm, but are the objects of dislike and persecution to those who would raise a new money king, a new golden calf, before which to bow the knee. The attacks on Mr. Marshall M. Strong have done the money idolaters little good. He is too well known not only near but throughout the territory to be injured by the attacks of such men, and if ill health has prevented him from answering all their ill natured attacks, still the little he has said has had infinitely more weight than the much, the all, that has been spoken against him.

Mr. Ryan has been active and energetic, and although every effort has been made to goad him to passion, still he has preserved coolness enough to convince his opponents that if he can be urged to anger, they must find more talent to oppose him than they have yet produced before they can effect their object. We may disagree with him on some points, but we cannot on many, and we are glad to see him showing forth Democratic doctrines and showing up those who profess them but do not practice them.

The early part of the convention has been unsatisfactory to all, but we yet hope that there is enough Democratic feeling to redeem lost time and produce a constitution that will be satisfactory to a majority of the people.

### RESTRICTIONS ON THE LEGISLATURE

[December 2, 1846]

We see that some of the papers in this territory and especially those most in favor of banks, special incorporations, and systems of miscalled internal improvements are exclaiming against imposing **any** restrictions upon the legislature against law making for such



purposes, declaring that as each legislature comes fresh from the people it ought to know their will and to be permitted to act upon such knowledge.

This would be all true if the people were never deceived by their representatives, but such we know is not and will not be the case. Even at this moment and on the very subjects above named the people of this territory are sadly misrepresented. Before the election you could not find any papers among us that were in favor of any of these measures; now there is a hard fight for them, and many a paper that was dumb hitherto, because it had no hope, is loud-mouthed now, and strongly denounces restrictions as evincing a distrust for the people. They evince no such thing. If passed, they will prove a regard on the part of the convention to the will of their constituents.

We should like to know what a convention was called for if not to place restrictions on the executive, the judiciary, and the legislature. The very definition of the powers of each is a restriction from other powers, and if we are to have no restrictions, of course we can have no constitution. But are these gentlemen opposed to all restrictions? Do they consider them all as manifesting a distrust of the people? Oh, no. They are willing enough to see restrictions on the legislative power, but then they must be such as please them. You must not restrain the legislature from passing especial laws for their benefit, for that in their view is a distrust of the people. Other restraints, such restraints as suit them, you may impose, and they will never consider the people distrusted, but leave their special hobbies alone, or you at once awake the thunders of their loud indignation.

The people of every state in the Union (except Rhode Island) have long thought it necessary to impose restrictions upon their legislatures, not because the people themselves are to be distrusted, but because those they send are. None can tell when one man will become corrupt. None can tell when a majority of a legislature may so misrepresent the wishes of their constituents as to do serious injury to the whole people. Therefore it is that restrictions are imposed.

No man can doubt that there is a large, a very large majority of the people of this territory opposed to all systems of banking, to all systems of internal improvement by the state, and to all incorporations. A majority, and an overwhelming one, of the present convention was elected by the people with a full understanding that

restrictions were to be placed on all legislative action on these subjects, and if these men abuse their trust they will be dishonored by their constituents. We feel confident that no constitution where the legislature is allowed to act on any of these subjects will be accepted by the people, and then those who have acted against what they knew to be the wishes of those who employed them will find too late they have lost the paltry objects of personal ambition for which they contended without even effecting the wrong to the people their bitterness would lead them to wish had been consummated.

If there are any points on which all are doubtful, they ought, if possible, to be left alone by the convention; if that is not possible, they might be left to the people as separate articles to vote on. This was done in New York on the question of negro suffrage and might be done here if thought to be necessary, but we imagine there cannot be more than one man in a hundred who does not know that the same fate that attended the question there would await it here, and that, therefore, it would be but idle trouble. If we are wrong in our supposition, let it be made a separate question here.

It has long been confessed by all in this country that law making has become too much a passion with our legislatures, and that restrictions upon them are necessary. Constitutions are constantly framed to check this feeling, and we were in hopes, and are yet, that ours will guard against it.

On the subjects of banking, of incorporations, of internal improvements, most especially, have legislatures been working for years, and all know that every succeeding year has proved that the more they legislated the worse the people were off. Talk of a bank under proper restrictions! Where is it? Who has ever seen one? Who expects to? From fifteen to twenty odd legislatures have been working year after year for fifteen or twenty years to produce one bank with those proper restrictions that would make it safe, and all their efforts have been failures. Even Messrs. Clay and Webster have been unable to devise a plan that would satisfy anyone. Is it not evident, then, that it is idle to attempt further experiment?

But whether idle or not, it was the known wish of the people here that no banks should be chartered, that the legislature should have no power to charter them. It was well understood that the people expected restraining clauses in the constitution against legislation on internal improvements and special corporations, and if these are not inserted in their constitution, it will be rejected.

Gentlemen in the convention may flatter themselves with the idea that by sacrificing the wishes of their constituents they can form coalitions to elevate themselves to office; but they are mistaken, and when they get through with their mutual congratulations on their cunning they will find they are marked by the people to stay at home as unfit to be trusted just because they could not restrain their own paltry ambition enough to fulfill the wishes of their constituents and place those restrictions on legislative power they knew were desired by the people.

## BANKS

[December 9, 1846]

The Whig papers throughout the territory are filled with threatenings as to the fate the constitution will meet when it comes before the people for adoption or rejection because of the, to them, obnoxious bank article. Not content with giving their own views on the matter in question, they anxiously look up and adopt the views of journals in distant states, who in their wisdom see fit to attempt a sneer at the doings of our delegates in convention. This would be all very right, very proper, if they or the journals from which they quote would attempt by argument or statistics to prove that the proposed law was a bad one and calculated to injure the business and prosperity of our young state; but no, the argument they see fit to advance is confined entirely to comparisons between old states and our young territory. This species of argument has always been used and always will be used by those who have no other, and in the present case, as heretofore, will meet with that success it deserves.

Why, we would ask, should we look for examples and precedents to the state of New York, for instance; in what way can the history of that state be used to favor the creation and sustaining among us of a system that has been so thoroughly tried and with such effect as it has there? Are we, because the state of New York sees fit to continue a course of policy that facts prove to have been injurious to her interests and the morals of her people, to follow in her footsteps for the sole reason that she is an older and richer community than we are? Or are we because the state of New York continues a course of banking and public improvement that has filled to overflowing the coffers of a few individuals on the one hand, while on the other it has filled her prisons to overflowing and called for the creation of new ones? Why should a people be expected to follow out even to their own ruin a course they know to be based upon



fraud, even though it should (which it cannot) result in great prosperity to the state? Corrupt a government and you corrupt the people. Let it be thought that the government may defraud and the individuals composing that government will certainly entertain the same opinions. What right has government to give one man privileges which it denies another? True, the bank men say that all who please can hold bank stock if they are able and thus reap the advantages acknowledged to accrue from the possession of such stock, but then if they are not able they must be content to let the advantages be gained by their wealthier neighbor who from the fact of possessing wealth needs no further advantages over the poorer citizen. Wealth confined to the hands of a few never yet made happier the world and never will, and this fact, alone, in our opinion, ought to be sufficient to deter a people from granting to any class of men special privileges, such as joint stock companies, etc., but, worse than all others, bank charters.

We might go on ad infinitum with bank charters and their kindred corporations; which to the real wealth of the world never add a single farthing of value, and yet the friends of the system will gravely insist that they create wealth. How? "Oh they (the banks) make money more plenty."

"Money?" you ask.

"Yes; where before there was but one dollar in the country, there are now ten."

Ask again, "What is the basis of your currency?"

"Specie, of course."

There you have it; where there was but one dollar of specie you have now ten of paper and all by the magic of bank charters. But, again, you have worsted your opponent on his specie basis; and he turns round upon you with a most self-satisfied countenance and says, "Why, we have real estate with our specie as a capital; that you know can not be carried away." We'll see. In 1835 real estate was said to be worth such and such prices; in 1846, while every branch of industry is in the most prosperous condition, the same property will not bring much more than a fourth of 1835 prices, and you ask the reason.

"Oh!" says your bank friend, "money is not so plenty." Why? "Because there are in this present year fewer of these wonderworking institutions that can change one dollar of specie into ten (equally good are they?) dollars of paper." Alas, their blindness is only equal to the impudence of the sneer contained in the lament that our convention did not sit before that of New York.

This arguing against banks and bankers is unprofitable business in as much as every one of them, we mean those in favor of bank institutions, will readily agree that they are bad things in the main, and will only speak in general terms of their value. They know they are wrong, and still they are afraid to discard them. Out upon such policy.

Some of our delegates have been misled in regard to the feeling of the people in this community—misled by the false representations of disguised friends of the system and by the lying statements of its open opponents—and yet we can and do honestly assure them that in our community, our county, and throughout the territory, upon the bank question, could it be presented alone to the people, it would receive a majority greater than was ever before given for any one measure in the territory.

## SELECTIONS FROM THE LANCASTER WISCONSIN

*HERALD*

## THE CONVENTION

[December 5, 1846]

“To a man up a tree,” it seems that it might have been a very easy matter for our convention, with the constitutions of more than twenty states for a guide, to make a concise, sensible constitution, which the people would be ready to adopt. It is not a constitution with novel and striking features that we require. Our folks are not given to experimenting. The people, at least in our part of Wisconsin, did not expect their delegates to engage in a strife to see who should introduce the most democratic measures. The majority at home utterly despise the narrow, contemptible policy pursued at Madison by a set of men who try to give every measure a party character—who with the pride of Lucifer in their hearts affect to be as democratic as Lazarus. Those demagogues who attempt to succeed by loading the van of radicalism, who have sunk to the lowest depth of popular ignorance, beneath “the change of clay,” and are drifting in the stratum of party prejudice for political capital, will presently “be caved in upon” by the mass of public intelligence and public opinion and public virtue which they are so rashly undermining. The attempt to erect a party machine in Wisconsin for the elevation of a handful of heartless demagogues who can use it as a Democratic guillotine to behead politically every man who dares to do right has been attempted. That attempt will fail; and the authors of it will sink into merited contempt. The constitution will be rejected. Its friends will be rejected. The people feel mortified that such a monster has been begotten at their expense. The declamations, the silly witticisms, and the noisy harangues in the convention, the ignorance of parliamentary rules, the disregard to decency, the little knowledge of constitutional law, which characterize the body, have made it the derision and contempt of the whole Union. Amongst other things equally absurd the people are to be invited to sanction a provision for making it a penal offense to receive paper promises of payment. This feature alone ought to kill the constitution. It will not stand up long enough for the people to knock it in the head!





JAMES MADISON GOODHUE, Editor of the *Lancaster Wisconsin Herald*

From an oil portrait owned by the Minnesota Historical Society



## WHAT IS TO BE DONE?

[December 19, 1846]

As soon as the people shall have had an opportunity to reject the constitution, another movement must be made. As Mrs. Chick says to Mrs. Dombey, "This is a world of effort." We must make another effort and try to bring forth a living constitution. Thirty thousand dollars is thrown away. That is nothing. Some of the same men who composed the convention have before now squandered more of the public money than that. We would suggest another plan for framing a constitution. There is talent enough in the convention to make a good constitution—no doubt of it. That is not the difficulty. The talent is too much diluted. There are too many crude minds in that body. It is too large. It may be true that in a multitude of councillors there is wisdom; and it may be added that in the same multitude there is also weakness and folly. Not questioning the truth of this proverb of Solomon we believe quite as much in the homely adage that "too many cooks spoil the broth." Every man is not a Lycurgus. The system of Spartan law was framed by one mind. The code of Louisiana was framed by Mr. Livingston alone. Those constitutions have the most symmetry, consistency, and vigor that bear in all parts the impress of one great mind. No matter how few frame the constitution, if it is a wise one, the people may adopt it; if not, they may reject it. Let the legislature by joint ballot elect five commissioners over thirty-five years of age to draft a constitution. Such commissioners would frame a sensible, consistent constitution, which the people would adopt. The expense would be little. Will this not be better than to send eighty more men to Madison, of whom not one in ten ever carefully read through the constitution of any state, to jangle for three months more like members of a village lyceum, at a further cost of \$30,000?



SELECTIONS FROM THE PRAIRIEVILLE *AMERICAN*  
*FREEMAN*

## THE SUFFRAGE ARTICLE

[November 3, 1846]

The suffrage question elicited considerable discussion, in which Messrs. Chase, Tweedy, and Burchard advocated most eloquently the extension of the elective franchise to persons of every complexion. This was opposed by Messrs. Strong of Iowa, Strong of Racine, and W. R. Smith. The article passed to a third reading in the following form, which will probably become a part of our constitution for the next ten years. We copy only the first section. \* \* \*

If this article embodies the sentiments of the majority of the inhabitants of Wisconsin, the friends of freedom will perceive that much work is to be done before the principles of liberty will be fully understood, or at least before these principles obtain the ascendancy and find a place in our constitution and laws. How long will it be before our lawmakers will learn and dare to distinguish a man from the coat he wears? How long before they will learn that the rights of a human being are not dependent on the hue of the skin or the form of the features?

The time will come when the men upon whom now rests the responsibility of giving a constitution to this embryo state will pass off the stage of action, and their reputation will be in the hands of an impartial posterity. The time will come when their work will be reviewed, when the constitution they are now framing will be revised. Before that period arrives, if we rightly read the signs of the times, a change will take place in the public mind. The odious and oppressive character of the article that excludes all our citizens from the elective franchise except the "white males" will be seen. This wicked prejudice exists not only in the minds, and mouths, and enactments of our legislators, but is to be discovered in almost every circle of society in our country except where the purifying influence of antislavery truth has been effectual. Here then is work for every friend of equal rights. The family circle, the social gathering, the neighborhood, the church, must all be purified from this unjust, absurd, and despicable prejudice against the man of "sable hue." Laboring in every honorable and appropriate way to cleanse these fountains of influence, let us prepare for such a revision of the

constitution as will secure to every man his inborn rights, and obtain for our state His smile who "hath made of one blood all nations of men for to dwell on all the face of the earth."

October 22, 1846

### RIGHTS OF CLERGYMEN

[November 10, 1846]

We observe an article introduced by a member of the constitutional convention, which proposes to render this class of our citizens ineligible to any civil office within the state. This, it appears to us, is akin to the disgraceful abridgment of the elective franchise. For what crime are they thus to be crippled in their privileges? Has the state already bestowed upon them some office, the duties of which they would neglect, should their fellow citizens think best to call them to some public service? The office they hold the state can neither bestow nor recall, inasmuch as church and state in our free land are happily and forever dissevered. Why then should the state either by constitutional provision or by legislative enactment render clergymen ineligible to civil office any more than preceptors of academies, editors, or physicians? Are either of these officers responsible to the state for the faithful discharge of their duties? No more are clergymen, and for this reason they should not be incapacitated for civil office.

Should this article become a part of our constitution, who are to be regarded as clergymen? Should that large and useful class of men, who were formerly engaged in preaching, but have retired on account of impaired health—shall the numerous "local preachers," as they are styled by the Methodists—shall all these citizens be reckoned among the excluded? Not for even alleged crime, not on account of incapacity, but simply because the state in a most audacious and officious manner decides that their duties, with which the state has nothing to do, would be neglected, should they be called to civil office. Truly, the state must have a very great regard for the prosperity of the church—must be exceedingly solicitous to further its interests, thus to throw a barrier in the way of its officers becoming officially serviceable in civil affairs! If this be true, such an article would seem to be contrary to the genius of our general government, which does not meddle with church affairs, pro or con.

To us, however, the proposed article evinces a different design. It is said that John Randolph once declared that he would go twenty rods out of his way any time to kick a sheep. The article

appears to us as a thrust at religion; and we deem it altogether mean and despicable, not to say blasphemous, for the state to go so far out of its appropriate course to insult all the forms of religion found among us.

We are happy to learn that this objectionable feature is removed from the constitution of the state of New York. We quote the following pertinent remarks from the *Tribune*:

Hitherto a clergyman, no matter how competent or qualified, has not been eligible to any office under the state, not even that of school commissioner or inspector. This most unwise restriction (originally a crotchet of the great and good John Jay) is abolished by the new constitution, and the people are left free to require or reject the services of clergymen in a political capacity the same as other citizens. We deem this a great improvement. Do you say clergymen ought to devote themselves exclusively to their calling? We answer, That is their business; the state has no right to make or meddle with ecclesiastical matters. True there have been cases in which men have abandoned a clerical career to devote themselves to politics, but we do not think religion lost anything thereby; for if they carried their religion into politics they could not have taken it where it was more needed; and if they did not, having none to carry, the sooner they left the pulpit the better. A clergyman may properly decline office which draws him from his higher vocation, or the people may refuse, unless in special cases, to elect clergymen to office, deeming their training and mental habits not such as would best qualify them for magistrates or legislators, but all this will better adjust itself in the absence of an arbitrary constitutional restriction than otherwise.

#### THE SUFFRAGE ARTICLE AND THE BILL OF RIGHTS

[November 24, 1846]

ROCK COUNTY, W. T. November 16, 1846

In examining the article on suffrage and the elective franchise, as it passed its third reading by the constitutional convention at Madison, I think we find therein a clause repugnant to even the least semblance of republicanism—a principle as odious to every lover of true and equal liberty as are the laws upon the statute books of some of the southern states, which prohibit by the infliction of certain penalties a portion of American born citizens from learning to read—aye, learning to read the message of salvation from the oracles of God their Creator!

That men, descendants of the patriots of the Revolution, should become so degenerate to the great truths and principles incorporated in the immortal superstructure on which is reared our republican edifice as to incorporate into the constitution that is to govern the free state of Wisconsin a feature disfranchising a portion of American citizens at the ballot box and at the same time welcoming to that sacred retreat of freemen Indians and foreigners from every nation,



almost immediately after their arrival on our shores and who consequently know comparatively nothing of our political institutions, and there to wield an influence more powerful than the sword and bayonet, and that, too, merely on account of the color of their skin is a solecism which I think none but a genuine "progressive" Democrat can solve.

But what caps the climax of this demagogism is the beautiful manner in which the first section of the bill of rights, as reported by the committee, clashes and gives the lie direct to the article on the elective franchise, section one of which reads as follows: "All men are born free and independent: therefore all government of right originates from the people, is founded in consent, and instituted for the general good." Now then, does "all government of right originate from the people" when a portion of the "people" are disfranchised of the "right" to aid in originating those laws? And are such laws "founded in consent" of those they are to govern, who can have no voice in enacting them? And will the people of Wisconsin submit to such legislation—legislation unworthy of the day and age in which we live?

We trust there are many who will place the seal of condemnation on the instrument under consideration whenever it may be submitted to the people at the ballot box:

Let every Liberty man that hates oppression and is opposed to seeing his adopted land disgraced by the adoption of a constitution that is to govern a great and growing people reject any and every one that may be submitted for his ratification that offers such insult and injustice to the colored man. And let every Whig and Democrat who believes that "all men are born free and independent" carry out his professions when he comes to decide the fate of the offspring of the constitutional convention, which virtually declares they are not.

A. F. M.



**PART III REJECTION OF THE CONSTITUTION:  
DEBATE IN TERRITORIAL LEGISLATURE**





## EDITORIAL EXPLANATION

Early in the legislative session of 1847 petitions were introduced in the Council praying for the passage of a law calling a new constitutional convention in case the constitution formed by the convention of 1846 and then before the voters for ratification should not be adopted. These petitions were referred to a select committee composed of H. N. Wells, A. L. Collins, and Marshall M. Strong. On January 27 this committee submitted a report<sup>13</sup> to the Council, accompanied by a bill (No. 32 C.) entitled "A bill to amend an act in relation to the formation of a state government in Wisconsin, approved January 31, 1846." The report took the ground that since a constitution was now before the voters for ratification, and since no provision had been made for a second convention in case the voters rejected the constitution now before them, it was desirable for the legislature now to make provision for such convention; otherwise the voters would, in effect, be told that they must accept the present constitution or forego for the time being admission to statehood. The bill made provision, of course, for a second convention in case the voters at the approaching election should reject the constitution of 1846. On this day it was read the first and second times; on February 5 it was reported as correctly engrossed, and being put on its passage was debated on this day and the day following, when it was passed by a vote of seven to six. In the house of representatives Council Bill No. 32 was taken up for consideration February 9, and after a sharp parliamentary contest was ordered to indefinite postponement by a vote of seventeen to nine.<sup>14</sup>

<sup>13</sup> Printed *post*, [pp. 267a, 267b, 267c].

<sup>14</sup> *House Journal*, 1847, 214-17.

REPORT OF SELECT COMMITTEE ON BILL FOR  
A NEW CONVENTION

Mr. Wells, from the select committee to whom the petitions praying for the passage of a law calling a new constitutional convention, in case the present one is not adopted, introduced No. 32 (C) "A bill to amend an act in relation to the formation of a state government in Wisconsin, approved January 31, 1846"<sup>15</sup> and submitted the following report which accompanied said bill:

"The committee to whom were referred the proceedings of the board of supervisors of the county of Waukesha, together with various petitions from different parts of the territory asking that provision by law be made for holding a convention to form a state constitution in the event that the one now submitted should be rejected by the people, beg leave to report: That they have endeavored to give to the subject submitted that consideration which its importance demanded and to discharge the important duty assigned them with a single regard to the rights, interests, and wishes of the people of the territory. In the discharge of this duty the committee do not feel called upon to express any opinion as to the merits of the constitution already proposed or to speculate upon the probabilities of its rejection. It is enough for us to know that the electors of the territory have the power to refuse to it their sanction and that a respectable portion of them already looking to such an event have asked the passage of the law in question. The contingency to meet which this provision is asked has already happened in other territories and by possibility at least might happen in Wisconsin.

"Provision by law for a second convention subjects the electors to no trouble and the state to no expense, while it leaves the people free to exercise their choice either to take the constitution now presented to them or to take prompt measures to secure a better one. To withhold such a provision would seem to be assuming on the part of the legislature to prejudge the question now submitted to the people or would at least be saying to them, "You must take the constitution now offered to you or you shall have none with our aid and consent." Such a position it is presumed this body does not wish to occupy.

<sup>15</sup> *Journal of the Council*, 1847, 99-101.



“Regarding the rejection of the constitution as barely possible within the sovereign choice of the people the committee cannot deem it wise or necessary in case of such contingency to incur the expense of a special session of the legislative assembly or to submit to the delay of awaiting the action of a future legislature. Having the power now to make the requisite provisions, and being called upon to do so, the committee deem it the duty of this body to pass the law asked, leaving it to the choice of the people to make use of it or not as they may deem proper.

“The committee therefore ask leave to introduce the accompanying bill and recommend its adoption.

H. N. WELLS

MARSHALL M. STRONG

A. L. COLLINS

Judiciary Committee

## DEBATE IN COUNCIL, FEBRUARY 5-6, 1847

## COUNCIL DEBATE, FEBRUARY 5

Mr. Wells said that as the bill now before the Council had originated in the committee of which he was chairman it might perhaps be expected that he would explain its object and give the reasons which induced its introduction; and while up he would also state briefly the motives which had thus far influenced his action and the reasons which should govern his vote.

There are now before us petitions from nearly all parts of the territory signed by between three and four thousand citizens asking the passage of this law. We have also the action of the board of supervisors of the county of Waukesha on the same subject. The board is composed of one member from each of the sixteen towns in the county and may well be supposed to represent the will of the people. This county is second to but few in the territory in population and inferior to none in the intelligence and moral worth of its inhabitants. To this strong expression of the people in favor of the law there are a few remonstrances, but the number of signers is small in comparison with the petitioners, being less than one-tenth.

The object of the petitioners is clearly explained in the petitions. They set forth, what all admit, that the people are extremely anxious to throw off our present colonial vassalage and become a free and independent state of the Union. To facilitate this desirable object, to avoid the evils of a contingency which may happen, they ask the passage of the law now under consideration. Is not this request reasonable? Is it not absolutely demanded at our hands by the peculiar circumstances of the case, independent of any petitions upon the subject? For one, sir, I am clearly of opinion that we would be justly liable to censure were we to adjourn without passing this bill. What are the facts? How does this matter stand, stripped of political or rather, party "expediency," to which the opponents of this bill have so often alluded?

A constitution has been formed and is to be voted upon in April next. This constitution has also been submitted to Congress and is probably before this accepted by that body; and if so, no appropriation will be made for a session of our legislature next winter. By an act of Congress no legislative session can be legally held until an appropriation has been made therefor. Under these circum-

stances it is clear that we can have no regular session of the legislature for two years; and if provision be not now made, and the constitution should be rejected, we must remain for two years as we are, without even the means of attempting to change our condition. Are gentlemen prepared to meet such a contingency? All admit that it may happen and deprecate it as an evil. But the opponents of this bill in order to justify their course say that if the constitution is rejected, the governor will call a special session of the legislature. To this project there are several good objections. Many believe that the governor has no power to call a special session. But for the sake of the argument we will admit he has the power, and will he have the disposition? Have gentlemen here any assurance that he will make this call? None pretend that he is under any obligation to do so. Without any action on his part he can occupy his present comfortable and dignified position for the next two years, with little or nothing to do, and at a salary of \$2,500 per annum. Will he be likely to issue a proclamation calculated to oust himself from office—to deprive him of power, and cut off his salary? I must confess, Mr. President, that mine eyes have never witnessed any evidences of self-sacrifice, of patriotism, and love of country on the part of our executive sufficient to justify such expectations.

Suppose, however, that the executive has both the power and the disposition to call an extra session, and one should be called. Who will pay the expense? Does anyone suppose that the expenses of a special session called, not for the purposes of territorial legislation, but merely to take measures to sever the connection that exists between us and the general government, will be paid by Congress? No reasonable man believes it. The expense must be borne by the people of this territory. And what will this special legislature do? Why, pass the very bill now before us and then adjourn; and the people will be taxed thousands of dollars for an act which we can now do without the slightest expense, at no sacrifice of time and money.

But it is said that these petitioners are Whigs. I believe it is true that a majority of those who have petitioned us upon this subject are Whigs; but there is nothing yet in the constitution which prohibits Whigs from petitioning a legislative body, nor is there anything in my democracy or in my sense of right and justice that will prevent my granting their request when made in a respectful manner upon rightful subjects of legislation and especially when the thing asked for is in and of itself right and proper. But these petitioners are not all Whigs. I notice amongst them some hundreds



of old staunch, long-trying, and faithful Democrats—men who have never swerved under the most trying circumstances—who have never edited Whig papers, made Whig speeches, or held Whig offices. These men are in favor of the law and are opposed to the constitution. And who shall dispute their right or impugn their motives?

It is also argued that these petitions are opposed to the constitution. Admit it, and what then? Are men opposed to the adoption of the constitution entitled to no rights? Are they not entitled to the same consideration that an equal number of the friends of the constitution would be? Will honorable gentlemen admit that they are governed in their acts of legislation by the opinions, political or religious, of men, rather than the real merits of the law?

Sir, in my opinion, we should approach this question without any reference to the political character of the petitioners. That cannot change the merits of the question before us. If there was not a single petition before me, I should feel it my duty to vote for this law. We pass many of the most important laws without being petitioned at all.

It is also contended that the provision asked for is novel. I grant it; and so is the case to be provided for a novel one. No other constitution as far as I can learn has ever been submitted to the people subsequent to an intervening session of the legislature; nor did anybody suppose this would be. All supposed that the question would be taken in season to enable this legislature to act further in the premises if the constitution should have been rejected. The convention, by putting off the vote, have produced this new and novel state of things and have rendered the provision now before us absolutely necessary. All admit that if the constitution should be rejected, they would regret that this law had not passed. Why then oppose it?

Why, the argument is that the passage of this law will kill the constitution. By making this admission, the friends of the constitution pay but a poor compliment to the instrument itself and a worse one to the intelligence and integrity of the people.

They say, in so many words, that the constitution cannot stand upon its own merits—that if the people were left free to vote for it or to take prompt measures to procure a better one, it would be rejected. They therefore refuse to pass this law and give the people a chance to choose for themselves; they say to the people, "Take the constitution here presented, or you shall have none with our aid or

consent." Is this right? Is it democratic? For one, I cannot so view it.

I shall not speak of the merits of the constitution, as I do not deem that a question necessarily involved in the one now under consideration; nor will I speculate as to the probabilities of its adoption or rejection. But I cannot let this occasion pass without expressing my disapprobation of the course pursued by some of its warm and too zealous supporters. I allude in the first place to the attempt of a portion of the press and of the Democratic party to make the adoption of the constitution a party measure. Sir, I want a democratic constitution, but not a party one.

Since this question has been under discussion it has been no uncommon thing to hear professed Democrats about the capitol threaten all who should vote for this bill with excommunication; and the remonstrance which has just been read at the secretary's desk goes a little further and charges that those who go in for such a "federal Whig measure" will be "politically damned." Sir, if I live until this vote is taken I shall vote for the bill; and I suppose I may as well just consider myself both dead and damned at once; and this question being settled I ask of my friends a Christian burial, and shall expect of my enemies that they will at least let the corpse rest in peace.

Secondly, I object to the attempt to indoctrinate the people with the belief that constitutions are fit subjects of change—that no harm will grow out of frequent changes—that they may indeed be changed every year without injury. Sir, I have lived for more than ten years under a changeable form of government, one made but to be changed when circumstances should require it, and I have looked with anxiety and with deep solicitude to the time when we should throw off this changeable form and adopt one of permanence and stability. And how, sir, are my expectations realized? With what are we now met? Why, the friends of the constitution tell us to adopt it this year and change it next. All admit that much of the happiness and prosperity of a country depends upon its constitution. All then who have families to leave behind them have a deep and abiding interest at stake, one paramount to any present benefit, and far superior to party or political considerations. Of what avail is it that we adopt a good constitution today if it is to be changed tomorrow? What assurance have we that it will be changed for the better—that it will not, in fact, be the very last protection we would wish to leave to our friends? It is bad enough to change

our statutes yearly; and if a constitution is to be thus changed, we might better have none. Sir, I am astonished to hear sensible, sound-minded men and good citizens propagating such sentiments—sentiments striking at the very essence of a constitution, destructive to all the benefit to be derived from it, and fraught with incalculable evil to our country.

As much has been said out of doors calculated to affect the passage of this bill, and as I am satisfied that the debate upon it will take a wide range here, I beg the indulgence of the Council if in the few remarks which I shall make in conclusion I should digress somewhat from the real question at issue. I claim this indulgence in justice to myself; and as I do not now intend again to address the Council upon this subject, or to speak in public upon the merits of the constitution now submitted to the people, I trust my wish will be gratified.

Many of my Democratic friends in their zeal to defend and sustain the constitution have, in my opinion, overstepped the bounds of justice, propriety, or policy. Whilst they claim the privilege of thinking and voting for themselves, they deny that right to others; and some of them have gone as far as to say that all who would not vote as they did upon this question were lukewarm bank Democrats or Whigs and should be read out of the party. Now I wish to inform these gentlemen that this reading men out of a party to which they have been devotedly attached for twenty years is not so easy a matter. But suppose it could be done. Would it be good policy? When all the Democrats who will oppose the constitution are read out of the party, the balance would be in a glorious minority and in a very poor condition to gratify the desire of their hearts. To kill off any portion of the Democratic party is suicidal. Dead men won't vote, and live men can't get office without votes. How silly is it then for Democrats to talk in this way and at the same time claim to desire the success and permanency of the party.

One word as to myself and I have done. I shall give my vote upon this occasion as upon all others whilst acting as a legislator, uninfluenced by fear, favor, or affection. I have no hopes of political preferment that can seduce me from the path of duty. My judgment and my conscience in this case shall be my advisors. Believing this bill to be not only right in and of itself, but absolutely demanded by the exigencies of the times, I shall give it my vote.

(We are obliged to omit the remainder of the debate on this subject this week. We shall hereafter publish the remarks of some



or all of the gentlemen who spoke on this question. The bill was supported by Messrs. Wells, Strong, Collins, Lovell, and Holmes, and opposed by Messrs. Clark, Palmer, and Singer.)—*Express*, Feb. 9, 1847.

SPEECH OF MARSHALL M. STRONG, FEBRUARY 5, 1847

Mr. President: It is admitted on all sides that this bill is the most important measure of the session. A greater number of the people have asked its passage by petition than that of any other law, and a deep interest is felt in the subject all over the territory. Let us treat it, then, with all that candor, and forbearance, and sincere desire to arrive at the truth, which has thus far so much distinguished the deliberations of this body; for by so doing we shall secure to ourselves the consciousness of having done our duty, which is the best shield against all the criminations of calumny. A great variety of topics may be with propriety touched upon in this discussion, upon some of which I have reflected much and felt deeply. In my remarks I shall condense my thoughts as much as possible and avoid repetition. I bespeak the favorable attention of the members and if I pursue the course which I have marked out I doubt not it will be cheerfully given.

The bill under consideration provides that in case the constitution now before the people shall not be adopted by them, then a new convention consisting of fifty-two members shall meet in June next for the purpose of amending it. It is unnecessary to refer to the details of the bill, for if there are any here who will vote against it they have the manliness to confine their opposition to its main object.

If the constitution is adopted, this law will have no force and will do no injury. If it is not adopted, this law will prevent our being delayed from coming into the Union for one year. The people by an overwhelming majority have voted that it is time for Wisconsin to be a state. We are the representatives of the people, and no one of us would or ought to attempt to thwart their will. Those then who think the constitution will be rejected will of course vote for this bill. Those who have doubts whether it will be adopted or not will vote for it because they would run no risk upon such a subject. Is there anyone here of so sanguine a temperament that he can say that he has no doubt but that the constitution will be adopted, and say it, too, not for the purpose of effect upon others, but with a full consciousness of its truth in his own bosom? It can-



not be. The minds of very many people are still unfixed upon the subject. The late convention, after having been wholly absorbed in the subject for ten weeks, thought it right that the people, having their ordinary avocations to attend to all the while, should have four months to make up their minds, and can we now say that they have decided the question in six weeks?

But even if one had no doubt upon the adoption of the constitution, it is his duty, in my opinion, to vote for this measure. Indeed, the original law calling a convention ought to have provided for another in case the constitution was rejected. The constitution should stand or fall upon its own merits, and we ought not to say to the people that unless you adopt this you shall not become a state for another year—you shall vote under duress—we will compel you to adopt this one or we will punish you. Suppose the late convention had had the power to provide for another in case of the rejection of the constitution. Would any member of it [have] dared to vote against such a provision? Are not we now placed in as delicate and responsible a position as they would have been, especially after we have seen such an expression of public opinion? The only objection which I have heard made to the passage of this law is that it will prevent the adoption of the constitution. The very objection admits that without extraneous considerations the constitution would be rejected. Now it is of the first importance that this instrument should give general satisfaction or at least suit the majority. But if it should not, and the minority compel enough to vote for it by such means as the refusal to pass this bill to have it adopted, then the minority rules the majority—we have no longer a people's government—and the fundamental principle of our government is violated in its very organization. But, sir, it will not so operate, in my opinion, and the people will be so indignant at any attempt to coerce them on so sacred a measure that many, very many, who were hesitating would vote against it for this very reason. Are the people to be persecuted and punished because they honestly believe that it is not for the best interests of the country to vote for it? It cannot be. We shall not undertake to carry measures with so high a hand.

It is very observable that men's opinions as to the result of the vote of the people upon this instrument are very much influenced by their own views of its merits. It will be proper, then, to discuss briefly those parts of it to which the greatest objections have been made. But before doing so it seems necessary to notice some preliminary matters.



MARSHALL MASON STRONG

From a photograph supplied by courtesy of Ullman Strong





Having been a member of the convention, I may be excused for speaking briefly of my own course. During the progress of the convention several measures passed which I did not like. Still I hoped, as did every other member, that after we had once gone through with our work we should at the close make a thorough revision and strike out or greatly modify those parts which were most objectionable. But when I saw that this hope was vain, and other measures yet more obnoxious were adopted, I resigned and returned home. And when, afterwards, I saw that many of the members of the convention and some of the presses in the territory had recommended the adoption of the constitution, and when I thought of the expense of another convention, the delay of our admission into the Union, the uncertainty of obtaining a better constitution—for I had been told that those measures which seemed to be most injurious were very popular—I hesitated. But when I found that those same measures were received by the people generally with utter condemnation, and it was suggested that a convention consisting of but few in number could be called at a small expense to amend the present constitution, with the moral certainty of greatly improving it, and without any delay to our becoming a state, the path of duty seemed plain and bright. I could not have voted for the constitution without many misgivings and compunctions, but I can oppose it with my whole soul.

I would not speak disrespectfully of the late convention, or of any of its members, but it labored under many difficulties, which all saw and lamented.

It was too numerous. Many writers have observed that large bodies of people collected together are much more excitable than smaller ones. The emotions and passions of men seem to be as it were contagious. It was often remarked in our session that, if one or two men became excited, the excitement extended over the whole body. The majority of the articles which were adopted were passed under the previous question, which precluded all amendment or modification, and members were compelled to vote for them as they were or have nothing at all to say upon the subject. Business progressed very slowly. When two months of the session had elapsed, the utmost limit to which any of us thought it would extend, much remained to be done. Thus many parts of the constitution were adopted without any calm discussion or deliberation.

There were too many standing committees. I voted for the number adopted, not foreseeing the evils we afterwards experienced. Each committee was necessarily small in numbers, contained but

comparatively little talent, had not the opinion of the convention represented by its members, and its report was too apt to be the mere individual opinion of the chairman. When an article was once reported, it was often difficult to change it, for sustaining the report was sometimes considered the same thing as sustaining the chairman. Under this feeling one article now in the constitution passed through all its stages without the slightest amendment, although I doubt not that a large majority were entirely opposed to its provisions. Owing to the number of the committees, too much was reported to the convention, and it occupied a great portion of its time to reject the surplusage.

It is well known that at an early day there arose two factions in the Democratic party, which continued opposed to each other throughout the session. I allude to the fact for the sake of showing its effects, without speculating upon its causes or imputing blame to anyone. This state of things produced suspicion, jealousy, hostility, and every other emotion which would most unfit men's minds for making constitutional law.

The convention was unfortunately constituted in another respect, which I can best show by an illustration: One may have four horses, each one of which may be excellent, yet no two of them will work well together. The convention, although it contained many worthy and talented members, did not work well as a body. No blame, then, is necessarily to be imputed to the individual members of that body because their work is imperfect, since they labored under so many adverse circumstances beyond their control.

But it is time to come to the constitution itself, and I will first speak of the section on the rights of married women. And here let me premise what will also be applicable to other parts of the discussion, that there is no doctrine, however erroneous, in support of which plausible arguments may not be urged. Upon all subjects of a moral or political nature, if we wish to arrive at correct conclusions, we must endeavor to comprehend the subject well and strike the balance of truth. Especially is that the case with laws. Every law sometimes produces evil. The passenger who goes a voyage upon a ship apparently staunch and well-manned may be drowned by reason of unseaworthiness and thus lose his life without any fault of his but by the operation of a law of nature. By another law of nature all mankind must die. It seems to operate very hardly at times, and perhaps some legislature, with its limited knowledge, if it had the power, might modify it; but Deity is wiser than we are.

Those who have seen one or two great evils, apparently caused by our present laws, and have not observed the thousand beneficial influences which those laws are continually and silently exerting upon every department of society may undertake to remedy those evils, and by so doing cause others of a tenfold greater magnitude. Such I think was the cause of the adoption of this section, and such I think will be its effect. Let us anticipate somewhat its operation, and see whether its good or evil consequences will predominate.

If the wife is to hold a separate property in her own name she must have the means of protecting it. If it is trespassed upon, she must be able to bring suits in her own name. She will then be sole plaintiff. If she can sue she must also be liable to be sued. If she is to have the power of keeping her property separate from that of her husband and subject in no manner to his control, she must have the power of suing him as well as others. If he interferes with it she can sue him in trespass and confine him in jail on execution, for imprisonment is allowed in actions of tort. She will have the power of selling her property, exchanging it, buying other property, for it is an essential requisite of property that one can do what one pleases with it, and it is contrary to the policy of laws to tie it up and prevent its being disposed of. She can then contract and be contracted with, execute bonds, mortgages, deeds, notes, and all other instruments. She can form a partnership in business with her husband, under the name of "John Doe & Wife," or "Mary Doe & Husband," or they may add another and have it "John Doe, Wife, & Tom Nokes," or she may form a partnership with Nokes alone, or with others added, or there may be dormant partners, and it will be none the husband's business who are her partners or paramours. She may engage in any kind of business, at any hour or place, and with anybody. The Bible says that woman shall leave father and mother and cleave unto her husband, and they twain shall be one flesh. The constitution says that they twain shall be as separate and distinct persons as any other two individuals in the community, or as any laws can make them. Tell me what more can be done by laws to effect this object. Woman is to be transferred from her appropriate domestic sphere, taken away from her children, and cast out rudely into the strifes and turmoil of the world, there to have her finer sensibilities blunted, the ruling motives of her mind changed, and every trait of loveliness blotted out. When the husband returns at night, perplexed with care, dejected with anxiety, depressed in hope, will he find, think you, the same nice and delicate appreciation of his feelings he has heretofore found? Will her welfare,



and feelings, and thoughts, and interests be all wrapped up in his happiness, as they now are? Will he, whatever friends may have deserted him, whatever disappointments may have befallen him, however cold the world may have turned upon him, always seek shelter in the bosom of his family with the same confidence of soothing sympathy as heretofore? Will the word "home" sound as sweetly? Where will be its guardian angel? O, sir, the effect of this law upon the husband, upon the wife, upon the children, and upon all the domestic relations will be most fearful. I am well aware that its evils will not appear at first, that they will develop themselves not at once, but gradually, for it takes time for communities to change their habits and customs, but its direct and inevitable tendency is to produce them, and in the course of time they will have their full and devilish operation.

We should not disregard all experience and authority upon this subject, and we have it on both sides of the question. This provision is substantially copied from the civil law. It exists in France, and I will merely say that more than one-fourth of the children annually born in Paris are illegitimate. Other causes may operate to produce so great licentiousness, and do, undoubtedly; but this I apprehend is the most potent. On the other hand, there is no such purity of morals in this respect as in our own country. Woman is treated almost universally with delicacy and respect. She can travel in our public conveyances hundreds of miles, alone and amongst strangers, without receiving the slightest insult; and so remarkable is this that English travelers through our country, and those, too, who are disposed to sneer and carp at all our institutions, manners, and customs, have uniformly spoken of this beautiful trait with the highest admiration.

That great frauds will be perpetrated under this section every one admits. I shall not undertake to run out the law in this respect. Everyone for himself can think of divers ways where the property of the husband in failing circumstances will find its way into the ownership of the wife. He will become a sort of man about the house, a convenience, degraded in his own and in the eyes of his partner and of the world. It is fabled that once upon a time a rooster crowed as follows: "Women rule here," and another one at an adjoining house replied "So they do here," while still another one far off chimed in by saying, "So they do everywhere"; and this interpretation will become literally true wherever women fall under the operation of this law.



This section will change entirely our laws of pleading, practice, evidence, domestic relations, and indeed throw confusion into every branch. It is a piece of civil law engrafted upon the common law, with the whole of which it is utterly inconsistent. It strikes deep among first principles. We have no precedents or decisions to guide us in the matter. No man can ascertain how to transact his business correctly, take what counsel he may, for it perplexes all lawyers; and I predict that if the constitution is adopted, more questions of constitutional law will be taken to the supreme court on this and the exemption section than upon all the rest of the instrument.

There have been hard cases, undoubtedly, where the wife's property has been taken for the husband's debts, although I have never heard of one such in the territory; but in nine cases out of ten this section would not remedy the evil, for a confiding wife, being overpersuaded by a persevering husband, would place her property under his control. In order to cure these evils, which are of rare occurrence and in most cases not chargeable to the laws, the husband is to be degraded, the wife unsexed, the children uncared for, the creditor defrauded, and the laws confounded.

The twin subject to the one we have been considering is the section on exemptions from sales on execution. *Par nobile fratrum!* They were adopted at one and the same time, in the same article, because, as I suppose, they have such a strong resemblance to each other in the inducements they hold out for frauds, their baneful influence on business, the false position in which they place women, and in the confusion which they will create in the laws. On a former occasion I stated cursorily my opinions upon this section, but find that the more the subjects are considered the worse they appear. I shall mention only such additional objections as have since been brought to my notice.

It is the opinion of one of the judges of the supreme court and I am told of several good lawyers that the adoption of this section repeals all laws and prevents all legislation upon the subject of exemptions. One of the rules for the construction of constitutions laid down by Judge Story is that the adoption of one provision includes all others upon the same subject. It is argued that if we can change or modify the exemption article by legislation, that then we can do the same to every other part of the constitution. Others think that this exclusion would be confined solely to exemptions on real estate. Others, again, think that the constitution would exempt all articles now exempt by law, but the law upon this subject

could never be changed. Still others, that the legislature will have the same control over the subject, with the limitation as to the quantity and value of real estate that they had before. Should the judge's opinion be correct, then not a bed, not an article of wearing apparel, or any other personal property would be exempt from execution. But I am the more inclined to think, especially since we are to have an elective judiciary, that the latter opinion will prevail and that this section will be only the first step to future and still greater exemptions. Adopt this constitution, and future legislatures becoming still more and more progressive will boldly carry out the principles too plainly shadowed forth in these provisions until eventually we shall arrive at the limit of all progress.

The real estate exempted by this section may be owned by a male or female, a married or an unmarried person. Where the wife has a separate property, can the husband and wife each have one thousand dollars worth of real estate exempt? Where a married man owns only forty acres or a village lot worth less than one thousand dollars and owes no debts and does not wish it to be exempt, can he alienate it without the consent of his wife? Suppose one owning real estate exempt should exchange it for other real estate, and there should be a judgment against him at the time. Would not the tract last acquired be subject to the judgment, as the debtor could not have two selections at the same time? Or suppose he should sell it for any other property. Would not that property be liable for his debts?

The avowed object of this section is to protect the wife and children. When the husband dies, it is made the duty of the judge of probate by law to sell his real estate to pay his debts, if there is not personal property sufficient for that purpose. Thus the wife and children will be protected while the husband is alive to support them, but the moment he dies and they are left helpless, the property before exempt will be sold to pay his debts.

Those who support this section must assume two principles to be correct: First, that man is unable to take care of himself, and it is necessary that the law should protect him; and second, that woman is more capable of managing pecuniary matters than man, or even the constitution, for it protects the property of the husband until she says to the contrary. She has a supervisory power all the while and can veto her husband's arrangements or not as she deems most advisable. Why should not the same principle extend to articles of personal property which are exempt, and the statutes be changed accordingly? Suppose some mechanic, having his all of fortune

invested in a house and lot in a village, worth one thousand dollars, wishes to sell out, in order to increase his stock in trade, or because his business is poor and he wishes to remove to another town. Having a most favorable opportunity to sell, he contracts his place, and going home, announces with great satisfaction to his wife what he is about to do, whereupon she says, "No. I like my neighbors here, and I shall not go away. Mrs. Caudle and myself have talked this matter over, and we have determined to stay here. Woman's rights have been greatly infringed upon ever since Adam's time, until the Fourierites in Paris and Fanny Wright investigated this matter." But the husband remonstrates, and says, "At the time of our marriage you promised to obey me, and St. Paul says, 'Wives, be subject to your husbands in all things.'" To which she replies that these are antiquated notions, entirely unfitted for this progressive age. Whereupon the man leaves immediately for California, Oregon, or some other distant region, where he hopes never to hear from his dear again. Is this constitutional, or some other kind of government?

If one sells another a horse on a month's credit, and the purchaser cannot pay for it, he ought at least to be willing to return the horse. If one lends another a hundred dollars with which he buys property and he is finally unable to pay, he ought certainly to give up the property bought with his creditor's money. The general rule is that the debtor's property shall be liable to pay his debts, and it is just. The exemption law is an exception to this rule, and wearing apparel, beds, a certain portion of furniture and other property are exempted for the sake of decency and humanity, and because they would be of little worth to the creditor. But this section exempts more productive capital than four-fifths of the voters of the territory severally own, and by what rule can it be defended? Why limit it to one thousand dollars? Why to one kind of capital only?

Until nearly the close of the convention no part of their labors met with so much opposition from the people as the sixth section of the bank article. I voted for that section because I thought it abstractly right then, and I think so still, all the while, however, doubting the expediency of placing it in the constitution. As soon as I had so voted I wrote to several of my constituents particularly on this subject, saying if it was seriously objectionable to the people, I would do all that I could to get it struck out; yet they uniformly wrote me not to change my vote. I doubted, because the subject was entirely a new one—it had never been discussed before



the people—the provision was not contained in the original report of the committee—it came upon us unexpectedly by an amendment offered in the convention—and it was not necessary to have it in the constitution. A constitution should constitute or organize the great departments of government, and prescribe their powers and duties, and fix such limitations to them as may be necessary. This section was to act only upon individuals, and the object might as well be left to the legislature or accomplished by public opinion, as it has been done in the western part of the territory. This provision, too, is one of that character which depends entirely upon public opinion for its efficacy. If A, B, and C will take foreign bills, who else will know it, and how will your law reach them? If D is opposed to taking them, but A owes him one hundred dollars, for which he can get nothing but Eastern bills, and he owes B the same amount, he will take the bills and pay his debt. Confidently hoping at that time that we should frame a good constitution, I did not wish to endanger its adoption by inserting this provision and thus lose all by grasping too much. Entertaining these views, when I found that public opinion came pouring in upon us from all quarters against this section, I should have voted to strike it out, my former vote and my correspondents to the contrary notwithstanding, and such was known to be my determination for several of the last weeks of the session.

The large number of which the house of representatives is to consist is, to my mind, a serious defect, but I must not dwell upon this subject. Ten members are apportioned to Racine County, and I am confident that her citizens would have been better pleased with half the number. The great additional expense of so large a body will be very burdensome upon the people of our new state, who have so many uses and calls for their money. Suppose it had been provided that the house of representatives should consist of thirty-nine members—a number equal to both houses of our present legislature—instead of seventy nine. The mileage of the forty extra members upon the same basis, I estimate the expenses of the new convention would be seven hundred and four dollars. If the session should continue forty days and the first two or three sessions must be much longer, their per diem for that time would be thirty-two hundred dollars. If owing to their great number they protracted the session ten days longer than it would have been with a smaller number and they would cause greater delay than that, then the per diem of all the members of both houses, which is one hundred, should be added, making two thousand dollars. Now these certain

additional expenses would amount to sixty-four hundred and four dollars, besides which there would be other expenses for printing, postage, etc. This large number was very unpopular in the convention, but it was adopted for the purpose of bringing representation nearer home to the new counties. But I cannot see how those counties will be benefited by it. They will have no greater representation in proportion to the whole number than they would in a smaller body. The local legislation which they may need would not suffer without an immediate representative. I do not think there has a local act been passed for Racine, Walworth, or Rock County, which has not passed almost without opposition, and which would not have passed if those counties had had no representative in the legislature. The same may be said of other counties. It is the general laws in which we are all most deeply interested, and these can be far better made by a less numerous legislature.

Another master evil of the constitution is the provision for an elective judiciary to hold their offices for five years. The manner of selection and the term of office, taken separately, are the worst features which could be incorporated into any judiciary system, and taken together they will operate with tenfold power of evil. No man, however experienced in life, however profound in thought, however farseeing into futurity, or however exuberant in imagination, can too much magnify the importance of a good judiciary. It is the very bulwark and safeguard of our whole frame of government. Of what consequence is it to have good laws, if they are incorrectly expounded or improperly administered? The judge has far greater power than any other officer in the government; and the property and the reputation and the liberty and the life of every citizen may be subject to his decision. Our courts are the fountains of justice, and if they are corrupted, if injustice can prevail in the land with impunity, or if those who seek redress for wrongs are hampered and delayed in their search, then our institutions, instead of being beloved, will become odious to the people and their best and dearest interests will be sacrificed. These considerations, the correctness of which none deny, should induce all persons to approach this subject with a wise diffidence in their own opinions and with a determination not to be governed by first impressions, but to give to the subject that calm and deep consideration which its importance merits. Yet a majority of the convention, having conceived that an elective judiciary was popular, that it was an experiment which must be tried, although many of them said that they had not much faith in it themselves, their minds were ef-

fectually closed against all consideration of the subject, and hence this provision was incorporated into the constitution. The fact of its being there is no evidence to my mind of the opinion of the members as to the merits of the question, but only as to their opinion of its popularity. The assumed popularity, both of this provision and of several others, I shall notice hereafter. But I will now briefly state some of the reasons which convince me that an elective judiciary will not operate well.

First. The electors cannot have the means of knowing who of all the persons within their judicial district will make the best judge. Of twenty-four hundred voters in Racine County, what one of them knows who in Walworth County would make the best judge, or who in Rock County, or who in Green County? No one of them, sir, has any opinion on the subject. From my long residence in the county, from the nature of my business, from my public avocations, I think I have had as good means of ascertaining as any of them; yet if the selection was to be made from any one of those counties, I could not now make it. Such is not the case with political offices. Members of the legislature are generally elected from the counties in which they reside, and have generally held other offices, such as magistrates, supervisors, or have become otherwise generally known. Candidates for Congress or state offices have generally either been members of the legislature, or have distinguished themselves in some public capacity, or they can make themselves known by popular addresses. But frequently the person who would make the best judge is the very one who is the least known to the community; for it is by no means the case that successful lawyers will always make good judges. On the other hand, the governor knows long beforehand that he is to make the appointment; he has the time and means to inquire into the qualifications of those proposed for the office; he can ascertain the opinions of all those who have had the greatest opportunities for judging of those qualifications; and it will be a part of his official duty for which he will be paid and held responsible to make the best selection.

Second. The judges, although elected by the people, will not be selected by them. They will be nominated by district conventions. You will have caucuses where the members of one party will choose delegates to a county convention which will send delegates to a district convention. Those who make the nominations will be the representatives of one party of the people in the second remove, while the governor is the direct representative of the whole people.



Now is it not notorious in our system of politics that the nomination of the dominant party in nine cases out of ten decides the election, and does not then the convention virtually select the judge, and not the people? True, the people at the polls will have the choice between two or three nominees, but it may be a sort of Hobson's choice after all. If all those who had marked qualifications for the office could be candidates, and the electors had the opportunities of ascertaining those qualifications, and there were no party or other sinister influence to operate upon their minds, the people would most certainly select the best man, and I should have the utmost confidence in their choice. If it is said that this objection applies equally to the election of [to] political offices, there are various reasons which destroy its weight, and besides there are paramount considerations why those officers should be elected by the people.

Third. In politics we often hear the maxim, "Principles and not men." Suppose a person to be nominated for the legislature who is utterly unfit for the station. Many party men would vote for him because his vote in the legislature might change from one party to the other the political power of the state, and, if a United States senator was to be elected, of the United States. It is this consideration which causes political parties to sustain their candidates so unanimously, and sometimes, too, to overlook their best men and nominate those who will be available, although they may be merely quiet, inoffensive men, without any force of character. Now in the selection of judges the maxim should be directly the reverse, "Men and not principles," no matter what the judge's political principles are, and most certainly no person should ever be able to discover what they are from anything he does officially. A party cannot gain anything by electing a judge; it propagates no political principles; it gives no political power; and it effects nothing politically in any manner.

Fourth. The more numerous any body of men are, the less responsibility there is upon the individuals composing it; and political conventions whose members, who are elected for a day, and for a particular purpose, without any of the forms of law, and frequently with objects aside from the main one are certainly not the most responsible bodies in the world. A variety of considerations operate upon the minds of the members of such conventions, and men are frequently nominated and elected to office who without nomination could not have received one-sixth of the votes of the people. But the only consideration which should operate upon our minds in deciding this question is what method will secure the best judges.

On the other hand, if the selection is made by appointment, the sole responsibility will rest upon the governor; his fortune and reputation will depend upon the proper discharge of that duty; and his choice will be approved by two-thirds or three-fourths, if you please, of the senate, the highest body in the state.

Fifth. If you elect your judges at the general election, the choice will probably be decided upon political considerations. Now just so far as these considerations have any weight they will do mischief. Therefore to avoid this evil the convention provided that there should be a special election held for judges. This may lessen the evil somewhat but it will still exist in great force besides being subject to another great objection. How many men will there be in the community who merely for the purpose of having a good judge will give their time and money to attend as delegates first to the county and then to the district convention? Will not an active, sagacious man who is aspiring to the office be able to secure in many places the election of delegates who will favor his views? Political considerations will affect the nominations where the great evil is to be found as much in the special as in the general election. If you elect the judges by general ticket throughout the territory, the nomination of the dominant party will be equivalent to an election. If you elect in single districts, you offer greater opportunities for intrigue and you have not the talent of the whole state to select from.

Sixth. But the effect of elections upon the judge himself, however good he may be at first, will be most deplorable. I shall dwell very briefly upon this point, for it has already been most felicitously demonstrated by my colleague, Mr. Ryan, in a speech which has been published and to which I would refer those who are desirous of fully understanding this subject. Politicians are governed very much by motives of expediency and policy, and with propriety, too, in many cases, and are continually having reference to public opinion, as they ought to; but it is a severe ordeal for stability and integrity, and few pass through it unsoiled. Now this would be the worst feature in the character of a judge, and elections and short terms will inevitably produce it. O, who can bear the thought of having a man in that sacred office who shall look over a case, and under it, and both sides, and all around it, to see what is politic or popular and put law and justice aside? Suppose a new election is approaching and the most influential politician in his district has an important suit against some humble citizen, in which his feelings are deeply enlisted, would not the judge, having his feelings and

pride enlisted in a reelection, thinking that his reputation and the fortune of himself and family were at stake upon it, and knowing that there are hundreds of ways in which he can favor one party or the other without its being observed except to the practiced eye, would he not, then, I say, swerve from the path of duty? Would not the same influences be incessantly operating in a greater or less degree? To think otherwise seems to me like being blind to all observation and experience.

Seventh. The short term of office without any provision for retaining the good judges is very objectionable. The business of a judge is a separate and distinct calling of itself, requiring practice and training as much as any other occupation, and the more experience one has in it the better judge he will be, even up to the age of eighty-six, at which Chief Justice Marshall died, if he should retain his faculties so long. No man can be a good farmer, or a good mechanic, or a good merchant, or a good anything else, without practice, and the more practice he has the better qualified he is for his particular pursuit; and how forcibly this rule applies to the difficult, complicated, and responsible duties of a judge, who can never transact his business by proxy, and who is often called upon in the progress of a trial to decide the profoundest questions of law, where great interests are depending, without any time for the consultation of books, or of friends, or even for reflection. Now just when your judge begins to be qualified, his office expires, and a change of politics in his district or an aspiring man in his own party may throw him out of office and thus deprive the community of all the benefits of his judicial education. Rotation in office, which works well in some cases, would be a miserable principle here. The constitution not only makes no provision for continuing good judges in office, but it turns out all the judges at once, thus leaving the bench entirely destitute of judicial experience.

Eighth. It may be a great heresy in these latter days, but I confess that I have still some respect for the experience and wisdom of the past. In the science of government theories are less to be relied upon than anywhere else, and those which have come from the wisest men and from the highest authority have often been refuted by experience. Judges have been appointed in the United States government and by every state in the Union except Mississippi, from the commencement of our history to the present time. Compare all those judges who have been appointed with the high political officers who have been elected and you will find them as a body far superior both in talent and in integrity. No lawyer, no



judge, no statesman of any note has recommended the elective system. As to the operation of it in Mississippi we know nothing, except by a letter from one Judge Quitman, who is now engaged in the Mexican war. I know nothing of Mississippi, except I have heard of Vicksburg. Now, sir, I object to adopting principles of constitutional law upon the same reasons that a fashionable lady selects her dresses, because they are the latest and newest cut; and in those states where I find the most intelligent and moral people, there I expect to find the best laws.

But New York has adopted the elective system—and therefore Wisconsin must—adopted, but not tried it, and that, too, contrary to the opinion of her best men. There were reasons, however, operating in that state, which do not apply here. Her old judicial system was defective in many respects. The court of common pleas, consisting of five judges in each county, who were paid only three dollars per day while actually employed, was a burlesque. The political court of errors, into which, if any suiter happened to fall, he was most surely ruined unless he possessed great wealth, was equally absurd. The supreme court and the court of chancery, although they had able and industrious judges, were three years behind in their business, and no labor, however arduous, could bring it up. The practice, proceedings, and pleadings in all her courts were verbose and expensive beyond endurance. On the other hand, the appointing power of the governor in that great and wealthy state was so vast that it corrupted the whole people. He had the appointment of some four hundred judges, besides surrogates, masters in chancery, inspectors of various kinds, and divers other offices, many of which were very lucrative. The citizens, suffering intensely under these evils, have gone to the other extreme, and rushed madly, as I think, into the elective judiciary. None of these reasons apply here. We have a good judicial system, a simple practice—our courts are able to dispatch promptly all the business which comes before them—and the patronage of the governor is not worth mentioning. If he appointed the judges, no governor after the first would appoint more than one and the difference between appointing one judge and hundreds takes away the whole argument, for the theory of our government is to divide its powers giving to each officer some and to none a great deal.

Again, it is said that formerly the same objections were made to the election of justices of the peace, yet in practice they did not prove well founded. The analogy sought does not apply. Justices are elected in small districts, where each voter can become well

acquainted with the candidate; party politics cannot be brought to bear on elections so successfully in small districts as in larger; the office in most cases is unprofitable and undesirable, and the incumbent cares little whether he retains it or not; the questions to be decided by a justice are for the most part simple and unimportant, and if he errs, his decision can be corrected by appeal, while such is not the case with the decisions of the judges of the supreme court. Although the governor might not make so good selections of justices, owing to the number of offices to be filled, scattered through every town in the state and their comparative unimportance, as the voters of the vicinage, yet he would make a far better choice of a single important officer than could a vast number of voters, who could not have any means of acquaintance with the candidate. Besides, it is undeniable that a desire for popularity does sometimes affect the decisions of justices.

The only argument in favor of the elective principle which I have ever heard is contained in the following question, viz., "Is it not more democratic, and do you distrust the capacities of the people?" In the abstract sense of the word it is more democratic, but not in the American sense of it. It would be more democratic for the people of the whole nation to meet together in one vast body and make their laws, as was done in the ancient Polish diets. It would be more democratic that every decision made by the people or their agents should be unanimous, which was also practiced by the Polish diets; and in order to carry out the principle the majority frequently killed off the minority. But this Polish democracy necessarily ran into anarchy and destroyed that nation, once the greatest and most powerful in Europe. It would be more abstractly democratic for the whole people to assemble together and decide all lawsuits, as was done by the Athenians after they destroyed the court of the Areopagus. This abstractly democratic tribunal banished Aristides because he was just, sentenced Socrates to death because he was the wisest philosopher and most exemplary man of ancient times. By the decisions of this court virtue became crime. But this Athenian democracy destroyed the most glorious city mentioned in history. Now shall we rush headlong down to destruction like the herd of swine possessed of legions of devils? Shall our government fall by the means which its enemies are predicting? The theory of our government is this: The people are capable of and will choose that form of government which is best for their own interests. The only question for us to decide is what course will secure to us the best judiciary? But to say that one method is better than an-

other and that the people will not adopt the better one is saying that so far our system of government is a failure. What good is to be obtained by this elective judiciary? What principle promoted? What party benefited? What evil remedied? How is the happiness and prosperity of the people to be advanced by it? Then why cast all the trouble and expense and responsibility of this election upon them?

It was expected by every member of the convention that at the close of its session the constitution would be most carefully and thoroughly revised. A standing committee was early appointed for this purpose. Acting under this expectation, many amendments and sections were adopted, which it was known were not carefully drawn, the members voting for the substance of the provision. But the session was protracted so much longer than was expected and the members became so impatient to adjourn that scarcely any revision could be made, and thus the constitution was left exceedingly imperfect in this respect. Now if there is any instrument where the nicest precision of language and the most methodical and accurate arrangement is required it is a constitution. Every word in it should be the most fit of all others in the language to convey distinctly and definitely the very shade of meaning intended. A single wrong word or a sentence badly arranged may cause many a lawsuit, and surely if there is anything which ought to be perfectly intelligible to the people, it is the fundamental law of the land.

Notwithstanding we should bring upon ourselves these great evils by adopting the constitution, yet the supporters of that instrument say that still greater evils are to be feared from its rejection. I shall very cursorily notice all the prominent reasons I have heard in favor of voting for the constitution.

First. The expense of a new convention. I have ascertained from the secretary of the territory that the average mileage of the present members of the legislature at ten cents per mile is \$17.60. Supposing the average mileage of the fifty-two members of the convention to be the same, their total mileage would be \$915.20. The second session called to revise the constitution of the state of Iowa continued less than two weeks. But suppose their session should extend to twenty days, then the total per diem pay of the members would be \$2,080. There will be no need of standing committees, and consequently little printing to be done. The constitution already framed can be acted upon at once, and such amendments proposed as public opinion shall have indicated to be necessary. The whole expenses will not exceed, in my opinion, \$6,000. This sum will



not be so great as the unnecessary expense of a numerous legislature for a single year. But, sir, no comparison can be made in dollars and cents with the evils which this instrument will inflict on our now prosperous country.

Second. Rejecting the constitution will delay our admission into the Union. Not at all. The convention will meet in June; the people can vote upon the adoption of the constitution in August, and elect their state officers and members of Congress at the election in October. Our senators and representatives can take their seats in Congress at the opening of the next session. But suppose there should be a delay. Must we rush immediately into the Union, no matter what the constitution contains?

Third. A new convention will not make any better constitution than the one now proposed. There is to my mind a moral certainty that it will. It will be less numerous; it will not be subject to several evils under which the late convention labored, and will have the advantage of its experience, and besides will have a clear indication of public opinion upon the objectionable provisions of the present constitution as to most of which the late convention was entirely deprived. Some fear that a new convention will not restrict the legislature in the contraction of debts, but I see no reason for such fear. Canals are obsolete, and railroads are the only means of internal improvements now considered desirable. It is admitted that states cannot manage railroads and that they must be constructed and carried on by private enterprise. I do not know of a single individual of either political party, who objects to this provision in the constitution. Even in New York where a vast and populous region is interested in the enlargement of the Erie Canal and in the completion of lateral canals the true doctrine has prevailed. But the great fear is that we shall get banks. Sir, I have been as uniformly and as decidedly hostile to incorporated banks as any other man, for proof of which I refer to the legislative journals, and my opinions about them are unchanged. There are so many decided tests of public opinion on this subject that he who will observe cannot mistake them. The citizens of the mining portion of the territory, having suffered terribly by the failure of the Mineral Point Bank and others, are now practically a hard-money people. The north has suffered equally by the Wisconsin Bank. No bank influence would be feared from the newer counties. In my own county there is scarcely a man of either party who is in favor of chartering banks. But the great bugbear is Milwaukee County; and pray what is the public opinion there upon this sub-

ject? Why two years ago the candidates for the legislature could not be elected until they had publicly pledged themselves to vote against all banks; and even the members of the late convention were instructed by the body which nominated them to oppose banks. The political conventions of both parties in almost every county in the territory have passed resolutions against banks, and no such convention of either party has ever passed resolutions in their favor. No other political question has been so much discussed, and upon no other has the decision of public opinion been so unanimous. There is one other reason for a new convention, which I intended to have noticed before. Although many distinguished statesmen—and amongst them Franklin—once thought that legislation might safely be trusted to a single body of men, experience has shown to the contrary, and it is now a settled maxim in the science of government, practiced upon by all civilized nations, that the legislature must be composed of two separate and distinct houses. Where there is but a single body, laws will often be passed in haste under the influence of impulse, excitement, or passion, and the members once committed are loath to change their votes. Do not this maxim and the reasons for it apply with greater force to the making of constitutional law?

Fourth. Some of these objectionable provisions are so impracticable and unpopular that they will not be observed, but remain dead letters in the constitution, and therefore they can vote for it. This is to my mind a most pernicious and dangerous doctrine. All governments must be sustained either by the respect which the governed have for law, or by the physical power of the government. As you decrease the former you must increase the latter, and hence the necessity for all monarchies to keep large standing armies. The people of the United States are emphatically a law-loving and a law-obeying people, and it is by this feeling alone that our government is sustained. Go through the country from one end to the other and you will scarcely ever see the hand or the power of government; and this remarkable feature in our institutions has been often commented upon by travelers from other countries. Clothed in the majesty of the law, the sheriff of the county, elected by your own votes, goes forth unattended and unarmed and takes away the property and the liberty of the proudest and most powerful citizen, and none dare interfere. Shall we blunt this sacred feeling of our citizens and strike at the very principle which supports all our institutions? It is true, and it is most unfortunate, too, that there is now and then a statute which is not regarded, but in

what constitution can there [not] be found a single provision which does not have full and perfect operation? Besides, the constitution itself requires every civil officer to take an oath to support it, and do you expect they will enter upon office with perjury in their hearts? If they neglect this part of their official duty, can you expect that they will perform all other parts of it faithfully?

Fifth. These provisions are so popular that another convention will not change them. This is directly contrary argument to the former. But where is the evidence of this popularity? The large number of the house of representatives was unpopular even in the convention. Nothing was said before the convention met as to the rights of married women, or exemptions, except that the Dane County Whig convention passed a resolution upon the subject which was generally condemned. The sixth section of the bank article was unheard of until it appeared by way of amendment in the convention. The elective judiciary received more discussion, but not such that anyone could tell how the majority thought upon it. When any political principle has been long agitated in the public mind, when both sides of it have been fairly discussed, when it has been made a political test at the elections, then you can tell what popular opinion is in regard to it. But when great questions of fundamental law suddenly arise, affecting all the interests of society and requiring the profoundest investigation, how can anyone say that this or that side is popular? Or suppose that the first impressions of those who had thought some upon these subjects were favorable to these provisions. Is that conclusive evidence of the opinion of the whole people? Or ought those first impressions to be forever adhered to, although further investigation may show them to be erroneous? Or even supposing that public opinion was in favor of these provisions, ought not he who differed with that public opinion and thought it fraught with evil consequences boldly and frankly to express his own and thus appeal to the second sober thought? Is freedom of speech and opinion proscribed? Are the people intolerant? No, sir. The very doubt implied by the question is an insult to them. There are no two leaves upon any tree alike, no two things in the world alike, and no two persons who ever thought precisely alike. Some pretend to think like every person with whom they meet, and express their opinions in the same manner the two old women did in the following dialogue, viz.,

First W.—“What do you think of the Revolutionary War?”

Second W.—“I think pretty much as you do.”

First W.—“Well, so do I.”



Such opinions are very valuable and much respected everywhere. I am satisfied, sir, that the people wish to hear both sides of all these questions, that they desire to arrive at the truth, and so to decide as will best promote their own interest. Should any one of these provisions be submitted to a vote of the people at a town meeting in any town in this territory, and a fair discussion should be had on both sides, I am confident that the vote would be against it. The opinion of the members of the late convention on these subjects, they having had no means of ascertaining what public opinion really was, is of no higher authority than the opinion of any other one hundred and twenty-five men of equal ability, who should happen casually to meet together. Indeed, their votes in some cases were no true index to their own opinions, for many avowedly voted against their better judgment because they supposed by so doing they were acting in accordance with public opinion.

Sixth. The constitution can be easily amended, and these objectionable features will be removed. This reason is directly contradictory to the latter one. Amendments can be made to it by a vote of two-thirds of all the members elected to each house, if they are afterwards sanctioned by a majority of the people who shall vote upon the question. The vote of any member of the legislature who shall be absent on account of sickness or for other cause will be counted against the amendment, and it will require two votes in its favor to balance it. It is thought by many members that this was a more difficult method of amending the constitution than those usually adopted. A large convention has just adopted these provisions; many are urging that they are good and exceedingly popular. When the constitution is once adopted there will be a great reluctance to change it, and can any man entertain a rational hope that the country will be freed from these evils in this manner? Besides, practical difficulties will arise from such a course. Suppose a married woman is holding \$2,000 worth of property under the provision of the constitution, and that section should be struck out by amendment. Who then will own that property? It is the very essence of a constitution that it should be the fixed and stable law of the land, the foundation of all other laws and institutions, and changes in it, even if wisely made, are an evil in and of themselves. How lamentable is it that the supporters of the constitution will be compelled to use this argument all over the territory to familiarize the minds of the people with the idea of frequent changes in the fundamental law; and if they succeed in their argument, we shall have a constitu-

tion as changeable and uncertain as the success of political parties or as the variable opinions of successive legislatures.

Seventh. Unless the constitution is adopted, the Democratic party in the territory is overthrown. Those who use this argument would spare no effort to use the party tie and drill to sustain the constitution. Sir, this is not like a party nomination. If you elect a man to office of inferior qualifications, the evil is temporary and comparatively harmless. But if you adopt a bad constitution, the interests of every citizen will be greatly prejudiced for a long time, and some of the evil consequences will remain forever. If the Democratic party should support this instrument as a party measure, the inevitable consequence will be, no matter what disclaimers are used, that all these repugnant principles are at once incorporated into the Democratic creed. If the constitution should be adopted by such means, the party must stand by these principles, and it will be inevitably defeated at the first and by far the most important election under state government because, although Whigs may vote for the constitution, they will not afterwards vote for Democratic nominations; and if the constitution is rejected, the party is thereby overthrown. But on the other hand, if the party disclaims that it is a party measure then it entirely frees itself from this great responsibility. What man at all acquainted with public opinion in the territory can shut his eyes to the fact that there are many firm, consistent, long-trying, and undoubted Democrats in each county who cannot and will not and ought not to be coerced into its support? How many such are there among the thirty-five hundred petitioners who have asked for the passage of this law? Will you say to them, "Vote for this or you are no Democrats, and we will read you out of the party"? If you do, and could succeed, you will read out far more than enough to lose your power in the territory, and I am not sure but a majority of the party. Hence all the Democrats with whom I have conversed and who have concluded to vote for the constitution are desirous not to make its adoption a party question. But when and where and how did these odious provisions ever become Democratic doctrine? In what state has any one of them ever been made a political test? Nothing ever emanated from any political body on either of these subjects except real estate exemption, which was recommended by the Whig convention of Dane County. In the late convention to form a constitution for New York State a proposition was offered to exempt from execution real estate to the value of six hundred dollars, and in a body consisting of one hundred and thirty-two members there were but eleven votes in its favor.

A Whig, who was formerly a member of the legislature, has annually for three or four years past introduced a bill into the Council containing similar provisions to the section on the rights of married women, which has uniformly been voted down by Democrats. There was a majority of six in the late convention for striking out the said section. The sixth section of the bank article would have been struck out of the constitution had it not been for Whig votes in its favor. When the resolutions were passed in a caucus of the Democratic members of the convention, it was understood by many who signed them, and so publicly stated at the time, that they did not thereby intend to make the adoption of the constitution a party question. Pray give whatever glory there is in originating these measures to the party to which it justly belongs if any party is responsible for it. Sir, if the constitution is to be adopted, and the great evil is to be done to the best interests of the country which I anticipate, I do not wish to see that evil increased by the overthrow of the Democratic party and Democratic principles.

In reflecting upon these various and contradictory arguments which are urged in support of the constitution it is remarkable that none of them touch the merits of the instrument itself. They confess and avoid—they plead an offset—they carry the war into Africa—they imagine great evils to come, which, in my opinion, are entirely imaginary. Their course seems to say, "The less there is said about the constitution, the better." But says one, "These parts of which you complain are a very small part of the constitution." True, but a law may be enacted in five words which will disband society. It is not in the number of words that a law is efficacious for good or for evil, but in their comprehensiveness.

I have observed with pain the evil effect which the support of this constitution has upon the minds of those who have concluded to vote for it. In order to justify themselves they begin immediately to soften down in their own minds its objectionable features—they look upon them with less and less repugnance—and if any of them are warmly attacked they will become their apologists, if not defenders, and thus the whole public mind is to become perverted. Besides, they are everywhere to familiarize the minds of the people with the idea that frequent changes are unobjectionable, and that those provisions of it which are bad can be disregarded, thus attempting to ward off evils by others of a scarcely less magnitude.

These features of the constitution are not only bad of themselves, but they are still more objectionable when we reflect that they will produce other laws still worse. They are seeds of evil which will



produce an hundred fold. We are just about to start in our course as a nation, and it is as important that we have correct principles of government as it is for a young man to commence business for himself with good habits and correct moral principles. Nations have their youth, their forming, fixing period of existence, as well as individuals. If we take the downhill road at first we shall be too apt to follow it with increased velocity. Good or bad constitutions and laws are not only effects but causes. They spring from a good or bad state of society, but afterwards they have a most powerful effect in producing in society the very qualities which they contain themselves.

Adopt this constitution, and we shall have an expensive legislature, which cannot make so good laws as would a less numerous body; we shall have a miserable judiciary; we shall have confusion and uncertainty in every branch of our laws; the respect for law and government will be lessened, and the bonds of society loosened; the sacred influence of the family relation will be impaired; and credit, enterprise, and business most injuriously affected. We are now in a country of vast resources, yet undeveloped for want of capital. We need capital to improve our water powers, to build up our villages, and carry on various branches of business which can be done at a great profit. While money is plenty in the New England States at six per cent, it cannot be borrowed here at twelve per cent; and as our laws grow poorer and poorer, the rate of interest will become higher and higher. It is frequently admitted by the supporters of the constitution that the merchants and business men of the territory are generally opposed to the constitution. Do they not understand their own interest? Is it not better for them that the farmer, mechanic, and laborer should be rich than that they should be poor? Do not people trade according to their means? Whoever heard of a merchant selecting an impoverished country as a place eminently favorable for trade? On the other hand, are not the farmer, mechanic, and laborer benefited by the construction of mills, by the building up of villages, and by almost any outlay of capital in the country? Sir, we are mysteriously and intimately connected together in the present state of society by a thousand ties, so that almost every individual in the community is benefited by the prosperity of any other individual and injured by his adversity. There is no diversity of interests between persons of different pursuits, and all attempts to excite prejudices between them are most reprehensible. If our own business men then so uniformly object to these provisions, business men abroad will be likely to take the same

view, even if the provisions were abstractly good. Our credit abroad will be seriously impaired. Now almost every merchant in the territory buys his goods in New York City on credit. Under this constitution he must either purchase no goods or purchase them at a greater price, on account of the increased risk of crediting. If he buys at a greater price he will charge his customers the same excess and also a still higher price for his increased risk in crediting. "O! but this credit is a terrible thing; we wish to cut off all credit." Does not the farmer, when he sows his wheat in the fall, credit his farm for a year? When he raises a horse or an ox does he not credit him for three or four years? If he has an hundred acres covered with grain, is it not as proper that the merchant or mechanic, who has furnished him with some of the necessaries of life, should wait to be compensated for his labor until the grain ripens, as well as the farmer? It requires capital to carry on any branch of business profitably, and some branches require a great outlay of capital. Would you, then, say that no young man, however well qualified he may be for a particular branch of business, shall engage in it unless he was either born rich or has served some master by the month or year until he has acquired the necessary amount? Will you give the monopoly of every kind of business to the rich alone? Have no merchants, no millers, no large farmers, but those who can pay for everything in cash, and thus destroy all competition? If a farmer had forty acres of land which he had not the means to cultivate, and a stout man seeking employment should cultivate it and wait till the crop was harvested for his pay, would not both parties be greatly benefited? I do not join, sir, in this indiscriminate crusade against credit. But these provisions, it is said, will operate like magic and merely cut off the abuses of credit. It will be magical indeed if they do.

While on this subject permit me to notice an expression which is often used instead of argument, viz., "the hard-hearted creditor and the poor debtor." Almost every man in this country is both debtor and creditor. The hired man who works for the farmer is the creditor, and the farmer is the debtor. The mechanics are almost all creditors, and you cannot divide society off into two distinct classes of debtors and creditors. So far as my observation has gone in this territory in nine cases out of ten the saying should be reversed so as to be "the poor creditor and the hard-hearted debtor," for I have seen twenty poor men oppressed by a rich debtor not paying them, where I have seen one injured by a rich creditor.

During the past two years almost the whole of the emigration to the southern portion of the territory has consisted of men of capital and enterprise, who wished either to purchase improved farms, or carry on some kind of business in our villages. Will not that class of men at the East have the same opinion about our constitution that the same class of our citizens have, and shall we adopt a constitution which will tend to exclude them and invite in those who wish to take advantage of our exemptions and married women's rights?

Mr. President, I have had neither time nor strength, if I had possessed the ability, to do justice to this discussion. I have barely touched upon those topics upon which I have spoken, and there are many important views to which I have made no allusion at all. Deeply impressed with the belief that the adoption of this constitution is fraught with evil consequences which can never hereafter be remedied, I earnestly invoke reflecting men of all occupations to ponder well these great subjects, and so to act as will best promote their own and the interests of their country. We, of Wisconsin, boast of the fertility of our soil, the facility of its cultivation, and the salubrity of our climate. These are great blessings, but may be rendered almost entirely worthless by a bad government. Look at Egypt, Italy, and Turkey, countries highly favored by nature, but blasted by misrule. We boast of the morals and intelligence of our people, our wholesome laws, and our good institutions, and justly, too, in many respects. There is one noble and distinguishing trait in the character of our citizens. It is the interest they take in the welfare of the territory—their public spirit, their state patriotism, if I may use the expression. The citizens of Wisconsin are not only contented with their new homes, but generally enthusiastic in their praises of them. They have selected their own farms, raised them from their wild condition to a high state of cultivation, made their improvements where and as they pleased, built school-houses, constructed roads, established churches, organized towns and counties, laid the foundations of flourishing villages and cities, and it is all the work of their own hands. They have the same pride, not carried to excess, which the king had, when he said, "Is not this great Babylon which I have built?" Everything here is in progress, a state of things the most agreeable to the human mind. Our citizens look back to the past with pleasing reflections, and forward to the future with bright anticipations. The words of the poet, with a slight alteration, are exceedingly appropriate to us:



Is there a man with soul so dead,  
Who never to himself hath said,  
This is my own, my chosen land?

In the older states, on the contrary, where society is stationary, where almost everything of a public nature has been already accomplished, where nothing better than the present is to be expected from the future, there is a strong tendency to make each person an isolated being in society, absorbed in his own and indifferent to the welfare of others. Hence it is almost impossible for anyone who has been some years in the West to be again contented with a residence at the East. Let us foster and cherish this noble and generous virtue—let us furnish it with its proper aliment—let us raise our standard of excellence higher and higher, so that at some future day we may point with just pride to the high social and political, moral and intellectual condition of our people and feel assured that the name of Wisconsin, like that of Washington, will have associations gathered around it which will be dear to every lover of freedom.—*Racine Advocate*, Feb. 24, and March 3, 1847.

#### REMARKS OF MR. CLARK, FEBRUARY 6, 1847

MR. PRESIDENT: The honorable councillor from Racine, Mr. Strong, has taken occasion to entertain the Council some three hours with a written and labored argument, analyzing, discussing, and deciding upon the constitution which is now before the people. Sir, I have deemed his remarks entirely irrelevant to the question before the Council. I am not prepared to discuss the merits or demerits of the constitution at this time and in this place. My constituents, sir, did not elect me for that purpose; they claim it as a right which belongs to them to discuss and adopt or reject that important instrument as they in their wisdom shall deem proper. I have listened to the gentleman's analysis of the constitution, and his long and labored arguments against its adoption by the people with attention and patience, and I hope the gentleman will extend the same courtesy to me while I occupy the floor in reply; and the gentleman will excuse me if in the course of my remarks I should attempt to analyze (not the constitution) but his singular and strange course in the convention and should animadvert somewhat severely upon his political course since.

But, Mr. President, before I commence my reply to the gentleman from Racine I have somewhat to do with the honorable member from Milwaukee, Mr. Wells, who had the honor to open the debate on the bill now before the Council. The first argument which the

gentleman brought forward as a reason why the present legislature should pass this bill calling another convention was "that the governor has not the legal power to call a special session, should the constitution be rejected by the people." I hope I shall be able to show this Council that the gentleman's position is not correct, that the ground which he occupies is untenable and, as a consequence, that his arguments on this point are without force and entirely harmless. Section 4 of the organic act provides that the day of the annual commencement of the session of the Legislative Assembly shall be prescribed by law. In accordance with this organic act section 2 of an act relative to the sessions of the Legislative Assembly provides for the governor's calling special sessions — Revised statutes p. 167. I admit, sir, with the gentleman from Milwaukee that this act was repealed on the third of March, 1843; but, sir, it was reënacted in the same act in the following language, viz., "The governor of the territory may as often as in his opinion the public interest requires it appoint by proclamation special sessions of the Legislative Assembly, to be holden at such times as he may designate, not less than twenty days from the issuing such proclamation" — Laws of 1843, p. 8, sec. 2. This law, sir, has never been repealed, but is now in full force and virtue. This, then, clearly establishes the right of the governor to call special sessions of the legislature whenever in "his opinion the public interest requires it."

But having established the fact that the governor does legally possess the power to call special sessions of the legislature, yet, sir, we who are friendly to the constitution will not avail ourselves of that power to meet the gentleman's expected and ardently hoped for contingency (the rejection of the constitution). For suppose for argument's sake the constitution should be rejected in April, and the governor should by proclamation call a special session, and the legislature should again meet under that call, and should pass a law similar to this bill before us, calling another convention. Of what legal force, let me ask, would that law be? Does the legislature possess the power to force the people into a state government whether they desire it or not? I surely thought that an act of such vital importance, of such stupendous magnitude to the people, did depend upon their own choice, upon their own free voluntary election. Well, sir, if the action of such a special legislature on this subject would be of no legal or binding force on the people and could not go before them clothed with any possible authority, I hold that the action of the present legislature would be equally powerless and of no avail. If the people should feel disposed to accept of an in-

vation of the legislature again to hold primary meetings and organize another convention they undoubtedly would do it as they certainly have a right to do so any time after next April should they reject the constitution without any law of the present legislature attempting to compel or prohibit their doing so whatever. And I hold, sir, that any action of this legislature on the subject would be of no more legal force on the people than a proclamation from the Governor, from the Adjutant General, Smith, or from the honorable gentleman from Milwaukee. Then, sir, why embarrass the constitution with shackles, leading-strings, wirepullers, etc., by legislative action here? Again, Mr. President, the honorable gentleman from Milwaukee has attempted to alarm and intimidate us by parading before us what he is pleased to term an "array of respectable names" as humble petitioners, and declares that some of them are respectable Democrats, but not finding the number of his petitioners as large as we apprehended, and fearing that the gentleman would be disappointed, we have agreed to throw in to him all the counter petitions or remonstrances, which enabled the gentleman to make out in all, I believe, some three or four thousand through the whole length and breadth of this vast territory—almost as many, sir, as we have received from two counties during the present session on local and isolated subjects. But the gentleman ungenerously and wrongfully accuses me of imputing wrong motives to these petitioners and complains that I do not give them due consideration because they are Whigs. Sir, it is not for me in my place to stand up and impute any motive to these petitioners or to question their respectability; neither is it for me to inquire whether they are Whigs, or Democrats. I care not, sir, whether they are Whigs, or Democrats, or Abolitionists. It is enough for me to know that they are opposed to the constitution, and have called upon us to aid them in our official capacity to reject it; and I solemnly ask, "Will this dignified body lend them a hand, in their official capacity, to effect their object?" I hope not. Sir—let the learned and ingenious gentleman disguise the subject as much as he pleases—still, the simple, plain matter at issue is this: The constitution is made, and is now before the people, and is highly approved of and ardently cherished by some, and a part of it objected to by others. Well, sir, those who object to the constitution are seriously apprehensive that they cannot defeat it unless through the aid and influence of this legislature, while those who feel that the vital interests of the people of the territory depend upon its adoption (and I acknowledge myself one of that numerous class) are opposed to



any legislative interference whatever, but contend that they have a right and are justly entitled to have it go before the people and the whole people on its own intrinsic merits, unprejudiced and untouched by any extraneous body whatever.

Sir, I have got through with my friend from Milwaukee, and I wish I could say as much in reference to the gentleman from Racine, Mr. Strong. Sir, I am friendly to the constitution which the gentleman in a well-written and labored argument of some three hours has attempted to destroy. I am not prepared, off-hand, sir, to defend that able instrument, which secures,—and well secures—to every man, woman, and child in this vast and growing territory every right which the God of nature in his beneficence has bestowed upon them. No, sir, I leave that to the congregated wisdom of the people who, I have full assurance, will do it justice and decide upon it by its merits alone, and if it is found acceptable, will defend it—and well defend it—against all the machinations of ambitious and aspiring men, and all the combined power of modern aristocracy. Neither, sir, will it be expected that I should have the temerity to stand up in my place and attempt to answer in detail labored arguments which the gentleman has been three weeks in preparing. I shall therefore leave the gentleman's arguments to be discussed by the people, before whom I understand they are already gone in pamphlet form, and content myself with counteracting and neutralizing their poisonous effect upon the public mind, as far as my feeble abilities will permit, analyzing, as I promised the gentleman when I first arose, his very singular and strange course while in the convention, and animadverting upon his political course since.

And here let me ask, Mr. President, what attitude does the honorable gentleman now occupy before the public? Here, sir, is one of the people's representatives, who certainly occupied a high and elevated place in the convention which formed the constitution, and because he could not control that honorable body and have it all his own way—because he could not compel a majority of that body to succumb to a minority—because he could not rule the people's representatives and make them subservient to his caprice—resigned! Yes, sir, resigned “in disgust,” as the gentleman himself was pleased to term it, in compliment, I presume, to the dignity of the convention, and went home! And what, sir, has been the gentleman's course since? Hostility, deep, settled, uncompromising hostility to the constitution which he assisted in making himself! Hostility, deep, settled, untiring hostility to the people who are friendly to the constitution, to his friends, to his own party, sir. Not satisfied with what in-

fluence he can exert as a private citizen, he has here availed himself of the high and official station which he occupies in this honorable body to accomplish his withering and desolating purpose, and seeks to have the merits of the constitution canvassed here, seeks to have it prejudged, hampered, trammled, and disgraced within the halls of the legislature by legislative enactment. Are these legislative halls, sir, the place to have the constitution adopted or rejected? I think not—I reckon not—I calculate not! Why then discuss the matter here? Is it not plain to the whole territory what the object is? Is the gentleman afraid to have the people's constitution, the work of their own hands, go before themselves for adjudication? Is he afraid, sir, to have the people, by their own firesides, and in their barns, and fields, and workshops, give it an honest and fair investigation unless it is first hampered and distrust thrown upon it by legislative action? Is he afraid that the "sober second thought" of the people will prevail over the political maneuvering of aspiring men? Why not then honestly hand it over to the people unscathed and unharmed as it came from the hands of their own representatives?

But, sir, is here the place to have the constitution discussed and decided upon? Is this the body, sir, the legally constituted tribunal to investigate and decide upon the merits of this vital and important instrument? If so, I have surely mistaken the power that called it into existence, that gave it the breath of life. I thought, sir, that it was to go before a higher and more august tribunal than even this dignified assembly.

But, sir, I have trespassed too long already on the patience of the Council. I must leave the subject, and also my friend from Racine, and am under the necessity of saying to my Democratic friends, in the language of the Bible, "Ephraim is joined to his idols, let him alone."—*Wisconsin Democrat*, February 13, 1847.

#### REMARKS OF MR. PALMER, FEBRUARY 6, 1847

Mr. Palmer said that the gentleman from Milwaukee had well observed that this was an important measure. It is, Mr. President, a measure involving considerations of the first magnitude. The real question at issue is whether this body will take the responsibility of saying that this constitution is unworthy the support of the people. This is a responsibility which I for one am unwilling to assume. I was not sent here for that purpose. The constitution is now before the people, and there I desire to leave it until adopted or rejected by their votes.

The gentleman from Racine (Mr. Strong) has said that by the passage of this bill we do not necessarily condemn the constitution. Nay, that we do not even by remote implication declare it unworthy of adoption. Here the gentleman and I differ widely. That I am right in my position is evident from the whole tenor of his arguments. For what other fact has he attempted to establish by these arguments? The entire burden of his speech (and it certainly was ably and deliberately made) was an effort to prove that the constitution is a bad one. That it is unwise and injurious in its provisions. That for these reasons it will and ought to be rejected by the people. And that, therefore, a new convention should be provided for. Upon these grounds, and none others that are tenable, is the passage of this bill sought to be justified.

It is also urged by the friends of this measure that the petitions in its favor are numerous, and I am asked whether it is right to disregard them. By what I can gather from the remarks of gentlemen who have alluded to these petitions as well as from the influences which have produced them and which now operate in favor of the bill I have a right to infer that a majority of the petitioners are unfriendly to the constitution. But have they any right to call upon us to aid them in their efforts to defeat it? Many of the petitioners, I am aware, did not look upon it in this light. But can any rational mind now regard it in any other? If so, why do we see the opponents of the constitution on the one hand vigorously and urgently pressing forward the measure, while the friends of the constitution on the other hand, both in this body and out of it, with equal unanimity call upon us to abstain from any action?

But it has been said that unless we pass this bill the organization of the state government will, if the constitution should be rejected, be unnecessarily delayed. Now I contend that this is not a necessary consequence. If it were I should certainly feel more doubt on the subject. I believe it, sir, to be wholly within the province of the governor to convene the legislature to provide for such a contingency. And I regard this as an evil of less magnitude than any attempt on the part of the legislature to prejudge the constitution.

I did not intend, Mr. President, when I arose to address myself to this question, to enter into any discussion of the merits of the constitution. I did not deem it my duty to do so. I do not admit that this is the place for a debate on the merits of that instrument. I am therefore wholly unprepared for so arduous a task. But since the discussion has taken so wide a range, I shall briefly revert to some of the positions taken by the gentleman from Racine, not



by way of arguments for or against the constitution, but simply to show that this is a subject upon which entire unanimity of sentiment can hardly be expected under any circumstances—that it is idle for us to expect it, even upon this floor, much less among the people.

Mr. Palmer here reviewed some of the arguments advanced by Mr. Strong, for the purpose of showing that they were not of such a nature as to justify legislative action, which he contended, as in other portions of his remarks, could only be justified by a precondemnation of the constitution itself.

In continuation he said that the gentleman from Racine seemed to apprehend difficulty in the way of inducing capitalists to invest their means in this country, should the constitution be adopted. Whether this conclusion is arrived at from the fact that banking is prohibited by the provisions of the constitution is more than I dare undertake to say. But from the gentleman's well-known hostility to all banking institutions I feel constrained to believe that this is not the case. But should it be otherwise, I am prepared to meet this objection on the broad principle long entertained and believed in on my part, that banking institutions do not, on the whole, increase the actual wealth of a country. The rate of interest to which he has adverted to sustain his position can neither be increased nor diminished except by the actual accumulation or diminution of wealth in the country. And so long as we have a large amount of public land to invite investment, and withdraw from circulation, there to be locked up in unproductive property, the surplus capital that may accumulate or flow in upon us, just so long, and no longer will this evil be felt, and the rate of interest be exorbitant.

In conclusion, Mr. President, the gentleman has lugged in another argument which I did hope to see kept out of this discussion. He says it is urged as a reason why we should not pass this bill that it would overthrow the Democratic party. Now sir, I have heard no such argument used on this floor. If any allusion to party or party interests has been made in the discussion of this question it has not fallen from my lips or from the lips of any of the opponents of this measure. For I believe I am the only member who had spoken on this side of the house when this remark was made by the gentleman from Racine. In my remarks this morning I endeavored to place the question on its true merits. I contended then as I do now that we had no right to meddle with the subject because we were assuming a responsibility that did not devolve upon us—because we were undertaking to decide a question which properly

belonged to the people to decide, and for which they would hold us responsible. I have not on any occasion permitted myself to take such a position. Neither have I deemed myself called upon either to defend or to denounce the constitution. I have only contended that we should let it stand or fall upon its own merits, and abstain from all action which would either increase or diminish the chances of its rejection.—*Argus*, Feb. 16, 1847.

## REMARKS OF MR. SINGER, FEBRUARY 6, 1847

MR. PRESIDENT: I am not unconscious of the inequality of the contest I engage in. I know that the odds are against me. With abilities, which I need not the very courteous gentleman from Racine to tell me are but ordinary, with little experience in debate, I have to encounter a gentleman of acknowledged talent, much experience as a debater, and who withal is cool, collected, and wary, and on a subject in which all the feelings of his heart, the energies of his soul, and the stimulated purpose of fixed revenge and passion are concentered. But, sir, unequal as the contest may be, I will not coward-like shrink from the engagement, though I have to lament my want of strength on an occasion and in an emergency from which greater powers might shrink with distrustful diffidence. Besides the advantages of talent and experience, the gentleman has all the advantage of matured deliberation, studied preparation, and well rehearsed argument. Never, perhaps, has there been an occasion in the life of the gentleman of as deep and vital interest as the present one; an occasion which from the moment he left these walls with a rebuked spirit and an indignant heart he has in the secret bastille of his thoughts prayed for and with all the means and appliances which an angered determined purpose is too fruitful to devise has sought to bring about. Yes, sir, great and important as this occasion is, we are mainly indebted to the gentleman for it. It is his own legitimate offspring—the wished for day of bringing forth after months of agonized travail. And let him hereafter, when the execrable offspring encounters him as Death, the child of Satan's wicked dalliance with Sin, encountered him at the thrice threefold gates of hell, not disown his true begotten. The rich fruit, the "golden opinions from all sorts of men" which may have been in expectancy will be at their fruition like the fruit on the shores of the Asphaltitis—ashes and bitterness to the taste. Such, sir, is always the fruit which baffled ambition is doomed to partake of. I say baffled ambition, for to that united with the unrelinquishable

love of office felt by a clique of incumbents may we attribute the manufactured agitation and public opinion that has been trumpeted about these halls to frighten members into a support of this bill. And I do not know but it has had the desired effect, preposterous as it may seem that men who in the catalogue go for statesmen of intelligence and honesty should come here to act, to legislate upon the constitution, of which the sovereign people are the only arbiters, when, too, they are no fresher from the people and no better qualified than the very men who were commissioned for this work. That instrument is to be tried by a jury of the people. Let it have a fair trial, unbiased and unprejudiced. When the people to whom it is submitted will have expressed themselves, then, sir, and not until then, can we with fairness and impartiality entertain a bill providing for another convention.

Gentlemen may deny a design prejudicial to the constitution; but, sir, I know it was introduced with other preparatory measures without these walls by the implacable enemies of the constitution for the purpose of withdrawing from it so far as these influences extended the support of the Democratic party. Their denial of their design only makes their conduct more deserving of reprehension, as insidious, and, I may add with perfect justness, assassin-like. What, I would ask, would be thought of that individual who, when another had been arrested for an alleged offense, would without waiting for conviction by a jury of the offender's peers break open the prison doors and with an uplifted dagger drive it to the hilt into the prisoner's heart? Would he not be a foul, cowardly, and accursed assassin? But there are other considerations which should make every Democrat frown upon this bill—considerations which force themselves upon me from a knowledge of the circumstances, motives, and influences in which it originated. Sir, I am bold to say that had not certain ambitious spirits been repulsed in their high pretensions at the convention this threatening occasion would have been spared us. But repulsed they were, aye prostrated by that very constitution; from that time their only study has been revenge, and nothing but the sacrifice of the constitution will satiate their vengeance.

Like the rebel archangel, who "by lies drew the third part of the host of heaven" after him, they, vain and impotent creatures, think to draw part of the Democratic host after them. But I trust they cannot "seduce them to that foul revolt."

Prominent Whigs have been addressed throughout the territory and urged by the authors of this measure to make the adoption or



rejection of the constitution a party question, with the assurance that if they did, enough of Democrats will join them to defeat that instrument. Accordingly printed petitions from Whig presses have flooded the territory, and letters are pouring in hourly here, the most discouraging in their intelligence to the friends of the constitution. But, sir, we understand all this; we have had a triumphant refutation of some of these letters. Their intelligence is false, manufactured for the occasion to operate here on us, to induce us to do that which under any circumstances we ought not to do and which under the existing circumstances we would be most culpable in doing.

It was not my expectation when I came here to take any decided action in regard to the constitution; much less did I expect to become so public and determined a champion of it as I have felt it my duty to be on this occasion. All my efforts have been directed, since I have observed the secret plottings and selfish as well as malignant designs of those who would rule or ruin, to counteract their plans, to resist their arrogant dictation, and prevent as far as I could other members from being drawn into the maelstrom of their dangerous influence. To make the constitution a party measure has never been my wish, either within or without these walls, however I may be represented by "Roorback" letters. It has been my desire to leave the people to their own choice of action upon it. But, sir, a crusade has been determined upon against it by political desperadoes to recover from their prostration and regain their former power, and abolitionism, bankism, and federal Whiggery have been invoked to join in the cause.

From this angry and determined war which has been declared against the constitution by the Whigs, not as a party, but by certain Whig leaders, Abolitionists, and Democrats from their own selfish and in some cases wicked designs, we would be guilty of a pernicious act of public injustice in passing this bill.

Does any gentleman honestly believe that from what has transpired the passage of this bill would not be prejudicial to the constitution? It would virtually sanction the opposition which has been conjured up against that instrument, and be approbative of the conduct of those who have manufactured that opposition. And more, sir, it would serve as a sustaining prop to bolster up the falling ambitious individuals who in their very desperateness of feeling would like Samson of old pull down the pillars of the party as they fell.

I for one will not countenance them in their wicked resolve. And while I would leave to every Democrat freedom of action in regard to the constitution, I will not by my own act contribute to prejudice public sentiment upon it. But there are other considerations which have their weight with me, to which I will advert in the course of my remarks.

Another word in regard to the designs of these individuals to whom I have alluded. The success of their plans—the rejection or adoption of the constitution—is with them a question of life or death politically. Hence their desperation. As Democrats, which shall we extend to them? Shall we abandon the constitution to the mercy of its opponents, or shall we fly to the aid of drowning politicians, whose cry is now, “Help me, Cassius, or I sink.” Let them sink; they have merited their fate. I at least will not extend a hand to bear them out of the swelling tide, the “chafing Tiber,” in which they thought to submerge the constitution, but in which they themselves are engulfing. I am sorry that such should be their fate. I regret that they should have provoked the fate, for some of them have held no mean degree in public estimation. I can exclaim over them somewhat in the language of Prince Harry over the fallen Falstaff—we could have better spared better men.

Through the machinations of these men the constitution has been made a party measure with the friends of that instrument; it has been forced upon them by an organized opposition. To this opposition, a part of which manifested itself by the Whig press before an article of the constitution was adopted by the convention, the baffled individuals I have alluded to of our own party have greatly contributed. But I think these revolting spirits have miscalculated their strength. A few may be drawn along in the car of their influence; the party may indeed suffer temporary loss and injury; the commingled waves of abolitionism, Whiggery, and recreant Democracy may toss and endanger for a season the ark of our political safety, but never, never, can they overwhelm it with their weltering wave of ruin. No, as the waves of ruin rise, the Democracy, if there is truth in the history of the past, or virtue in man, will by the blessings of Heaven rise above them still. Sir, our principles are a living element, and those who think to gain power by their sacrifice will have a short-lived triumph. A political convulsion is what these men desire, and they will trust to it to heave them above the surrounding mass. With such a desire their province is to agitate, agitate, agitate. With such spirits it is idle and useless to reason, except through their fears; and let me ad-

monish them there is much reason for them to fear. I will refer them to our party's history where the fate of their prototypes is recorded in more than one page of it. Yet these men profess an exclusive regard for justice, morality, and the interests of the dear people—the hackneyed pretext of those who would rule or ruin.

“Ye shall be as Gods,” was the promise of the Arch Deceiver when he would have thwarted the purposes of high Heaven by betraying a world. I would not be understood to say there are no honest objections on the part of the Democracy to the constitution, but I will assert that it was so generally received, as it was formed, in the spirit of compromise, that no one can believe there would have been an organized opposition to it, if it had not been for the machinations of certain baffled politicians, leagued with the abolitionists and bankities.

And now, sir, a word for the benefit of the west. To that portion of the territory I would say—trust not to another convention; for there is in the very nature of this opposition all the elements of hostile discord which you would deprecate and which never would be arrayed against the constitution, were not the hope strong within them that their doctrines and principles would prevail in another convention—doctrines and principles which I know are abhorrent to you.

In this agitated measure, the abolitionists have moved in solid phalanx—and for what? That they might in another convention secure the right of suffrage to the negro. This they look forward to with a reasonable hope, for they are too conscious that in many of the eastern counties they hold the balance of power. And I too well know and the people of the west too well know the fanatical character of abolitionists to doubt for a moment that the balance of power which they possess will be idle in their hands. No! That power will be exercised, and it will be acknowledged, and no person from those counties will obtain a seat in another convention who will not swear to support negro suffrage. I, for one, when that day arrives, will be prepared to take my final leave of Wisconsin. I will not live in a state, the fundamental law of which sanctions the views of these fanatical and incendiary associations. Nor will I ever acknowledge the equality of that race whom the God of nature, habit, and opinion has made a distinct and an inferior race.

No! As I love Wisconsin, I pray to God she may never know the degradation of taking a place in the brilliant galaxy of the Union, a black and lusterless star, emitting no light, shedding no brightness,



and imparting or receiving no glad illumination from the planets that surround her in the constellated expanse of our confederate firmament.

Regarding the bank article as peculiarly conservative of western interests, I cannot, with my knowledge of the sentiments of gentlemen of this and the other house and the fact that the friends of banking monopolies and the supple tools of the Milwaukee rag money machine are among the most zealous opponents of the constitution, hazard this article to another convention. There is no use to attempt disguising their opposition to the whole article by saying the sixth section is only objectionable. No, the objection is to the whole article. Such an objection has been declared by honorable gentlemen calling themselves Democrats. I supposed that if there was a question on which the Democracy was settled and unanimous, it was on that of banking privileges. I maintain that opposition to such institutions is a part of the Democratic creed; and that an advocate of banking corporations could no more consistently claim to be a Democrat than a believer in Mahomet's Koran could with truth call himself a Christian. There is a deep grounded opposition in the west both with Whigs and Democrats to the creation of banks. They are firm in their conviction that the business of banking is radically dishonest. We have had a sufficient trial to convince us that it is not congenial to our climate or soil. We have had it too well demonstrated to us that specie will be expelled by filling the channels of circulation with the paper of banks, and that the taking of depreciated paper in all our transactions is the necessity to which they reduce us. The Democracy of the west believe that banking is wrong in the abstract—dangerously repugnant to the spirit of our republican institutions. And lightly as it may be considered by some, yet pressing indeed must be the public necessity and startling the occasion to justify the conferment upon individuals or bodies of men of privileges that are at war with the common rights of all.

It has been said that a change from a paper to a metallic currency will be productive of great inconvenience; but I do not apprehend so. The change was effected in my district without any inconvenient results, notwithstanding inconvenience, and depreciation of the price of one great product was predicted by some gentlemen there as inevitable consequence. No people but an unproductive people require banks; they are better adapted to the nonproducing Indians than they are to a civilized, producing, and manufacturing community. In proportion to the increase of our productiveness

will our exchanges be made in products and the amount of money required to accomplish exchanges be diminished. The increased importation of specie into our state must always be of a correspondent amount with the exportation of domestic products. There is no use in saying that there is not gold and silver enough in this country for the purposes of trade; our exports will bring them to us if we desire it; but whilst bank paper is permitted to circulate among us, so long will the precious metals cease to circulate. Specie and paper money will not circulate in the same channel. Mr. President, it is hard to follow the gentleman in his meandering discourse. Even the sixth section of the bank article has not escaped him; he makes it one of the great objections which are to defeat the constitution, and yet the gentleman fought and voted for it in the convention. Is this ingenuous? Does it come with a good grace from the gentleman?

But I will proceed to the article on the rights of married women against which the gentleman has directed his heaviest battery. He has said it is inconsistent with the civil and common law. Sir, I deny it. It is a settled principle in the common law of England that by the intermarriage the husband acquires a freehold interest during the joint lives of himself and wife in all such freehold property of inheritance as she was seized of at that time, or may become so during the coverture. But he only enjoyed rents and profits, and in case of issue born alive so far as respected particular estates by the wife, he became tenant by courtesy after her death. He could not alienate her real estate; neither was he entitled to her personal property, except so far only as he had reduced such property into possession—Roper, 169. These were parts of the common law founded on the feudal system and which in many respects had totally altered the civil law. But even under this extension of the feudal law, if the husband was attainted of felony, the king did not acquire the freehold of the wife, it remaining in her, but only the profits during coverture, and, on the other hand, if the wife was attainted of felony, the king or feudal lord took the freehold of the wife by escheat—Roper, vol. 1, p. 3, 53, and 169. In order to render the effect of the feudal [law] less injurious to the rights of the wife, the whole current of legal decisions was constantly set towards the protection of herself and her offspring, in regard to her real and personal chattels, not alienated nor disturbed by the husband during coverture—Roper, vol. 2, p. 151. And in order still further to secure the wife in the enjoyment of her separate property the system of marriage settlements was devised, and the estates real and personal of the wife are to this day in England in ninety-nine

cases in a hundred protected for her sole and separate use and for the benefit of the younger children in cases where the oldest son or daughter would inherit the estate of the father or mother according to the nature of the estate under the feudal law. Hence, we observe that even by the common law of England a necessary protection was sought to be thrown around the property of the woman on her marriage, both by positive decisions, legal constructions, and by the system of marriage settlements. But how is it in our own country? With all the common law of England, except where altered and completely changed by the statutory law in the several states, the rights of the wife are less protected than in England. The wife in this country may be possessed before marriage of much and valuable real estate. She may acquire by gift or devise much more after her marriage; she has no protection against the persuasion of an unjust husband. She may be induced to join him in a deed; and a petty justice of the peace may take her acknowledgment separate and apart from her husband, which is her only futile and flimsy protection, and by a dash of her pen in one moment she may impoverish herself and beggar her offspring. The article in the constitution is meant for her protection and does not prevent the exercise by the husband of all his marital rights over her property during coverture. The rents, issues, and profits will inure to his benefit; even his creditors may be paid by him out of the profits of his wife's property, but the realty remains protected for the use of the wife and her heirs, unsubjected to the inhumanity of a reckless husband, as well as the rapacity of his creditors. And what is this article which the gentleman from Racine regards as such a dangerous innovation as will unsettle the usages of ages, destroy the established order of society, and produce confusion the most chaotic in our courts of law? Sir, it is not new in the history of laws or of rights. It is but restoring the civil law in place of the common law and can hardly be said to conflict with the laws of England at the present day and the usages which have sprung up in England in regard to marriage settlements. For the civil law on the subject I will refer the gentleman to Justinian's *Institutions*, lib. II, tit. VIII, p. 37, which perhaps it may be well enough to read:

It sometimes happens that the proprietor of a thing cannot alienate it: For example, by the law Julia an husband is prohibited to make an alienation of lands which came to him in right of his wife, unless his wife consents to the alienation; and yet every man is deemed the proprietor of whatever is given to him as a marriage portion. But in this respect we have improved on the law Julia, and brought it into a better state; Although it inhibits the husband to make a mortgage of such possessions, even with the consent of his wife, yet it permits him,



with the consent of his wife, to make an alienation. We have therefore provided a remedy by our imperial authority, so that now no husband can either mortgage or alien, even with the consent of his wife, any immovable possession, whether provincial or Italian, obtained with her as a marriage portion; and we have been induced to make these regulations lest the frailty of woman should occasion the ruin of their fortunes.

This right of separate property in the wife was not limited to the possessions obtained with her as a marriage portion; for she was permitted by their most ancient laws to augment her separate possessions post nuptias, that is, after marriage. What reason, I would ask, is shown for abiding by the feudal laws of England in preference to a recurrence to the civil law? It is said that we disturb the settled usages of centuries; it is not so. There has been, it is true, a system growing up in England since the Norman Conquest which relieves the wife from any disastrous consequences as to her property which she sustained by the feudal law; and in following this system up in our free country we are only rendering more protection to woman's rights than barbarous laws have afforded her. We seek to restore her to her rights under the civil law. We have for nearly two centuries been legislating for man—for ourselves. Let us at last begin to legislate for woman, who has equal rights with man, and only such protection in her property as he in his cupidity, and assumed power, and legalized authority, that is, legalized by himself, has thought proper to grant to her. But hold, cries the gentleman from Racine. As you value all that is beautiful and estimable in female character, withhold from woman equal rights and equal property, if you would not unsex her, cheapen the priceless jewel of character, make her a wanton and paramour, drive her into the sinks of pollution, unfit her for the domestic relations of life, chill her sympathies, and blast all those tender and genial influences by which, after the turmoil and harassment of political strife and business, she allays man's perturbation of mind, soothes his fretted spirit, and smoothes the wrinkled front of care. In short, this law will, in the language of the pious Watts, "poison life's stage, and paint damnation gay." Yes, sir, in the morbid apprehension of the gentleman it will make Wisconsin the Corinth of the world—the fertile soil of harlotry. That is all idle and silly declamation. Where is his argument? Wherein did he show to you that such consequences would result from the inevitable operations of this article of the constitution? He has not adduced anything like reason, argument, or common sense in support of his declarations. His declarations stand forth in naked absurdity and deformity, without even the gossamer of sophistry to veil their nudity.

I was not surprised, Mr. President, to hear such an unfavorable estimate of the female character made, after listening to the libelous opinions on human nature advanced by the gentleman when commenting upon the judiciary article.

Thank God! I cannot think so abjectly of human nature; it may be that I am ignorant of what it is; but if I be, then "ignorance is bliss." Will securing a wife in her separate property and providing against that destitution of herself and daughters which the recklessness and dissolute conduct of her husband may bring upon them be productive of such disastrous and melancholy results as the gentleman has predicted? He who knows and has a heart to feel the misery and want that throng our crowded cities and how often that misery and want are visited upon families by the wicked conduct of an abandoned husband certainly could not oppose such a humane interposition of legal protection. The frugality and maternal care of mothers would often if protected in property provide against the penury and want which profligate husbands afflict their offspring with. Many a fair daughter, the pride and joy of the family circle ere the clouds of adversity unlapped their deluge upon that once happy circle, has been driven in the wildness of that despair which penury, unmerited desertion, and uncomforted affliction will produce, into the receptacle of prostituted virtue, who, if the father had not squandered the property of her mother, might have been an ornament to society, a ministering angel of delight, irradiating the somber path of man's life with the happy sunshine ray of a pure devoted heart's affection. But says the gentleman—France, where a similar protection guards the separate property of the wife, is a melancholy example of the effects of such a law upon the female character. And with evident triumph he instances the incontinence and meretriciousness of the women of Paris, and the great bastardy which we all know that city is unparalleled in. Sir, I think there are other assignable causes for the moral depravity and prostitution in that city. The crowded city of New York with her thousand tempting allurements of dissipation and licentiousness, when compared for morality and chastity with one of our small inland towns, might perhaps furnish a satisfactory solution. How much is London behind Paris in such prostitution? But little I will venture to assert. No, sir, the incontinence of the women of Paris cannot justly be attributed to the effect which the law of separate property has produced. Its legitimate effect will be to elevate the character of woman and fortify her against the unfortunate causes which have impelled too many of her sex into a life of abandon-

ment. In support of my assertion and in refutation of the declarations made by the gentleman I will instance Rome, where the civil law prevailed, which I have read, and where incontinency or breaches of chastity were not known for five hundred years. To the rights she enjoyed when she maintained the most spotless character for virtue do we now seek to restore woman; and in doing this we attempt nothing new, nor do we disturb the settled usages of centuries.

Look at the whole continent of Europe. In how many countries does the civil law exist as the basis of all their separate codes? The answer is—in all! Look at the islands of Europe. Where does the feudal law or its offspring, the common law of England, flourish? The answer is—in Great Britain only. As to frauds to arise out of the effect of such an article, they are the offspring of a fearful imagination. The gentleman evinced more than ordinary ability upon the subject of frauds. I will give him credit for a greater display of that kind of cunning and ingenuity in the perpetration of fraud than I ever before witnessed in any honorable gentleman. Truly, he acquitted himself in a manner that would have delighted, if not instructed, even those who have won public distinction in the intricate and profound science of frauds. While he was informing us upon the practical applicability of the principles of that science in the various branches of trade, I was forcibly reminded of an incident which took place in my native state quite a number of years ago. It was at a time when the southwestern and western merchants traveled on horseback to and from Philadelphia, where they purchased most of their goods. One of these gentlemen, a Kentucky merchant, with his saddlebags, as was then customary, was descending the Alleghenies on the west side, when he was overtaken by a fellow traveler similarly accoutered, who, after some inquiries which elicited the information from the Kentuckian that he was a merchant, expressed his surprise that he should travel alone when robberies were of such frequent recurrence. The Kentuckian told him he didn't think there was much danger in daytime, besides he was well armed. These were no considerations with his new companion, who went on to tell him various ways in which he might be successfully robbed, when the Kentuckian drew forth a pistol, and suddenly turning upon the gentleman with it levelled at him, told him to "be off, for none but a damned thief could give such information."

But to return. Can frauds not be committed daily under any laws which ever were promulgated? Can any legislator guard against the infraction of his law? Are there not doors already open by which individuals have already parted with their property to



other persons, and even now enjoy the benefit of it? Do not such things occur every day? Let the gentleman from Racine with all his legal and personal experience answer the question.

The Bible has been resorted to by the gentlemen from Racine as authority, sacred authority, conclusive against the right of separate property in the wife. I, too, remember of something about the separate property of woman in that book. The gentleman was unfortunate in his reference to the Bible. Why, sir, it informs us that when God gave a theocracy to the Jews He established by command the right of inheritance in the woman. He commanded Moses in the ninth verse of the twenty-seventh chapter of Numbers to "speak unto the children of Israel, saying, if a man die and have no son, then he shall cause his inheritance to pass unto his daughter." And he also ordained that the inheritance of Teloophehad should pass unto his daughters. In Numbers, thirty-sixth chapter, women having inheritances are commanded to marry into their own tribe, to save the inheritance on the reversion of jubilee; and in the same chapter it is said that the daughters of Teloophehad married the sons of Manasseh, and their inheritance remained in the tribe of their father. This inheritance fell and was confirmed unto them after they were married as will be seen by referring to the seventeenth chapter, third verse, of Joshua.

Was woman transferred from her appropriate sphere, taken away from her children, her fine sensibilities blunted, and her every trait of loveliness blotted out by this divine law? Yet such are to be the sure pernicious effects of the law in the opinion of the gentleman from Racine. I have no doubt if omnipotent wisdom were here in the capitol of Wisconsin, the commandments delivered "on the plains of Moab" would be revoked. Is there anything in the character of woman, as delineated by the gentleman, to admire? Prone to go astray and to prostitution as smoke is to rise, there is nothing that restrains her within her proper sphere or preserves her chastity from pollution's soiling embrace but the husband's absolute control over her property. What an argument!

The section on exemptions from forced sales was next animadverted upon by the gentleman from Racine. And in this his optics are equally keen in discovering fraud; his mind appears to be peculiarly given to fraudulent conjectures. Could a law be framed in which the gentleman could not spy out some avenue to fraud under it? It might be he could devise such a law, himself, on the principle that convicts make the strictest jailers. The friends of the exemption claim that it is based upon the self-evident and just propositions

that all men should have an equal and undevisable right to the soil as well as to the elements of air and water; that he should be protected in the former to the amount that is necessary to the subsistence of himself and family. They hold that he should be entitled to a home which no law can deprive him of. Every man must have a home somewhere, and if you take away from him his homestead, he is thrown upon the community, to be furnished at the expense of the community with a home. The gentleman's legal discrimination enables him to discover inducements to fraud in this section which are not discernible to me. I perceive in it a good intent, a benevolent design, and a principle of human justice, which it will be the duty of the legislator to exemplify and carry out in his enactments upon this fundamental law. And I perceive in the future its beneficent effects—an independent people, a landed democracy, superior to want, the population of our vast prairies and forests. And when the time comes when other portions of our country will be densely crowded with homeless starving millions, from whom will ascend the cry for bread which now comes across the Atlantic, Wisconsin will exhibit a proud example of legislative philanthropy in a people prosperous and happy in the security of homes that will always afford them the means of subsistence. The time will not come in this or the next generation, but unless provided against it surely will come.

The opinion of one of the judges of the supreme court, it appears, is that "the adoption of this section repeals all laws and prevents all further legislation upon the subject of exemptions." Others may entertain whatever respect they please for the honorable judge's opinion, but, sir, I am free to say that in my humble judgment his opinion on constitutional law is not entitled to respect.

A rule laid down by Story for the construction of constitutional law to the effect that "the expression of one thing is the exclusion of another," it is asserted will prevent the exemption of personal property by the legislature. These gentlemen only give a part of a maxim laid down by that eminent jurist, which they isolate from the learned author's exposition, and are guilty of an ingenious application to the subversion of the text and the objects of the instrument, as the same author says is too frequently done. He instances one of "the subversions of the text" as follows: "Thus it was objected to the constitution that, having provided for the trial by jury in criminal cases, there was an implied exclusion of civil cases."

If there was any one principle I heartily desired to see in the constitution, it was that of an elective judiciary. We have triumphantly

solved the question of self-government. We have made sure that every other department of the government will be administered for the benefit of the people by making the people themselves the rulers and their public servants immediately accountable to them. Why should we retain the relic of federal doctrine? "The people cannot have the means of knowing who will make the best judge," is met in refutation by the practicability and success of the elective principle in every other branch of government. The same distrust of the people, the same insulting estimate of their intelligence and honesty entertained by the Federalists of old seems to possess the gentleman's mind on this subject. Indeed, there is a vein of federalism, not an undercurrent, but a bold, apparent, upper current coursing in turbid slowness throughout the whole extent of his remarks. It would have been happily in place in the Hartford Convention, and would have suspended counsel, and "taken with ravishment the thronging audience."

What pertinence was there in the gentleman's allusion to Greece and Poland, unless to decry and cast the contempt of ridicule upon democratic governments? Why instance Poland in the manner he did, but to demonstrate to us the chimera, the fatal fallacy of a government insecurely based—because based, as the gentleman would have it, upon the uncertain changeable and shifting sands of popular will. The gentleman evinces the same mistaken opinion of the intelligence of this honorable body which he entertains of the intelligence of the people in adducing unfortunate Poland as an example to admonish us against committing the fatal error of giving to the people the full and free privilege of the elective franchise. I have to inform the gentleman that Poland did not recognize in her government the simple principle which obtains here, that the majority shall govern. Far otherwise was it with Poland, though she aimed at freedom, for there the minority by a negative power governed; any one member could negative the declared will of all the rest of the country.

Sir, the argument used here against an elective judiciary will apply with equal force against every elective office. It is such an argument as I have heard monarchists of the Old World use against an elective chief executive, and in favor of an hereditary supreme magistracy who, being independent of popular will, free from party bias, and acknowledging no accountability to the people, would be unawed in the performance of his duty by those considerations which influence and corrupt an elective chief magistrate. Judges will not have the opportunity for favoritism and the corrupt exercise of



power which most all our other political officers possess in the appointing and removing power. In his official acts he will be under the scrutiny of legal gentlemen, who if they are argus-eyed as the gentleman from Racine in the detection of fraud and corruption will surely expose and hold up to public execration as a judicial leper every functionary of the kind who will stain the ermine of his office with corruption. It is said that to be a judge is a trade; if this assertion be true, its application is universal. I will admit that if fraud, corruption, and intrigue are necessary to qualify an officer for the discharge of "complicated and responsible duties" then, sir, a continuance in office is eminently desirable. The gentleman says that New York adopted the elective system, but the reason was that she wanted a change. Most assuredly that was the reason; a change from an appointing system, which the gentleman admits was corrupting the state. This was the great object of the change; the organization of their powers and other details were but minor considerations. It is said that judges will be nominated by conventions, that those conventions will be the results of caucuses, and that the election of judges will be on party grounds. Such I think will not be the case; but for argument's sake that the candidates for judgeships will be the nominees of party conventions, will the present complexion of things be changed by it? Will any Democratic administration, think you, appoint other than one of its own partisans to an office of important trust and power? Or will a Whig administration act upon a more magnanimous rule? Sir, the whole history of our government is against such a conclusion. And, sir, the appointments made by governors are generally in pursuance of the expression of legislative caucuses—caucuses which for corruption, dishonesty, meanness, stealth, and base intrigue transcend all that ever was conceived in primary caucuses. I speak from the record and do not falsify it. And the choice of legislative caucuses is generally the reward of partisanship—the compensating equivalent for dirty and unprincipled services rendered some "honorable" legislator. What a heart must that man have who thinks so meanly of human nature, who regards the human breast as such a lazaret house of corruption that proud and virtue-principled men, as some weak fools have dreamed of, can no sooner be elected to office by the people than they will become very monsters of guilt and depravity. What does the gentleman judge from? Does he find within his own breast the premises for such conclusions? Sir, my observation of public men since I have been here has taught me that a long continuance in office has the effect to corrupt the heart and extirpate

from the mind every noble sentiment. Therefore am I pleased with the shortness of the term of office in the article on the judiciary.

The gentleman disclaimed any knowledge of Mississippi where it is said the elective system works very satisfactorily—any knowledge, except that he had heard of Vicksburg, and yet in the same breath he pronounced them a very ignorant people and low in morals. I do know something of Mississippi, and I assert of the people of that state that for general intelligence, morality, high-toned honor, and the better attributes of our nature they will not suffer by a comparison with even the gentleman's native state. It is true, Mississippi has her Vicksburg; but it is equally true that Massachusetts has her Charlestown. In the first place summary punishment was inflicted upon a gang of scoundrels; in the latter place a Christian sect was mobbed, the temple of their devotion desecrated by the torch of incendiary citizens, and unoffending, pious divines and helpless females were driven from the flaming fane in which they had consecrated themselves to their God.

Another argument (I don't know but I ought to beg pardon for calling anything that has fallen from the gentleman "argument") but another assertion has been made against a judiciary elected by the people—that their capability cannot be judged of by the people. I will dispose of this objection by merely asking if the people have the means of judging of the official dignitaries appointed in pursuance of a legislative caucus, where everything is transacted by intrigue and dishonesty. And more, have they the power to rid themselves of unpopular and worthless incumbents when they have been thus imposed on them?

And now, Mr. President, I will briefly notice the objection made by the gentleman from Milwaukee (Mr. Wells) to the constitution, and that is the facility with which it can be changed. Such an objection, coming from the source it does, is really a good joke. Some philosopher of the human mind has said that persons are apt to boast the most of qualities they do not possess, and to censure most unsparingly the fault and vices which they have the largest share of, and, sir, if I am to judge from what has transpired on this floor, I must give in to the truth of the philosopher's remark. The gentleman from Milwaukee utterly repudiates the idea of adopting the constitution with the expectation of amending it wherever it is defective. Sir, there is nothing to my mind so horrible in this—nothing which, to use his language, "strikes at the very essence of the constitution." I will inform the gentleman from Milwaukee that the Constitution of the United States, the pal-

ladium of our liberties, was ratified by republican Virginia with the express condition appended to her article of ratification that the constitution should be amended; and I will further inform him that it was amended without "proving destruction to all the benefit to be derived from it." A constitution is not more likely to be changed because it provides an easy and cheap mode of changing it; on the contrary, those states that have a similar provision in their constitutions have seldom changed them, whereas those states that have on the other hand aimed at making their fundamental law permanent by erecting strong and insurmountable barriers against the power of the people to change it have altered and amended their constitutions the most frequently. What the people are satisfied with they will not consent to change; what they are not satisfied with they will not consent to until changed. When they want to change their constitution depend upon it they will do it, no matter what difficulties may be in the way, or how strong and high the barriers are that are enacted against them. Sir, I hurl back the imputation that the friends of the constitution wish to make its adoption a party measure. Such is not the case; but, sir, I assert, and I challenge contradiction, that its opponents desire, heartily desire, to make it a party measure. For this purpose they have written to Whigs throughout the territory, urging them, as I remarked before, to make the constitution a party measure. I know that it has able and firm supporters in many of the most consistent Whigs. And it generally finds an enthusiastic advocate in every Democrat who has the manliness and independence to rise superior to and spurn the dictation of party leaders and the insolent and corrupting power of sordid and self-aggrandizing officeholders. I never have been the obsequious follower of any popular leader. I never have nor will I ever submit to party drill. If there is a character I detest as contemptible above all others, it is the fawning sycophant, who "bends the supple hinges of his knee" at the footstool of power, or follows its beck clamorous in the performance of its behests, that "thrift may follow fawning."

It is said that we rely upon the strong wish which is felt to become a state for the adoption of the constitution. No, we rely—confidently rely—upon the genuine merits of the constitution in the first place, and in the next place we have an equally firm reliance in the people's repugnance to the sentiments and principles entertained and avowed by the opponents of the constitution. No one, I will confess, can be more anxious to see Wisconsin emerge from her territorial dependence and take her station, a proud station, among the



independent states of the confederate Union than I am; but, sir, I would rather be the sole means of deferring that time for ten years than have her apply at the door of Congress for admission with a constitution embracing the repugnant principles of its opponents.

Sir, I believe the people have now submitted to them the best constitution ever devised by men. It is the result of philanthropic intentions, talented study and effort, and liberal compromise. That some of the objections to it are justly founded I will not attempt to deny, for the system is human, and perfection belongs not to the works of man. Let it be remembered that serious objections were entertained by Jefferson and other eminent statesmen of that day to the constitution of our common country, but did they repudiate it? No sir; they received and treated it as it was framed, in a spirit of conciliation and compromise; and far were they from organizing an opposition against it because its authors had not made it wholly in accordance with their views. Theirs was a magnanimity of great minds which rise superior to selfish considerations, petty passion, or the plottings of ambition. It has been reserved for the more enlightened and patriotic statesmen of Wisconsin to pursue a different course.

I must before I close notice a remark which fell from the gentleman from Racine (Mr. Strong) that "although Whigs may vote for the constitution, they will not afterwards vote for Democratic nominations; and if the constitution is rejected, the party is overthrown." And yet, sir, he is exerting every nerve and using all the means which the revengeful feelings of thwarted ambition can suggest to effect the rejection of the constitution and the consequent overthrow of the party, as he predicts. The gentleman may reconcile his course to himself, but as a Democrat he cannot justify it unto others. And now, Mr. President, I have but to say in conclusion that believing the constitution to be eminently calculated to promote the best interests of the country, to protect the rights of all, to produce a just equalization of privileges, and to dispense liberally and benignly the blessings of freedom, I shall at all times be found its firm advocate. Yes, sir, I am willing to stake my political existence upon this cast and "boldly stand the hazard of the die." And be my destiny what it may, I shall always look back to this determination with that proud satisfaction which a conscious knowledge of my moral and political rectitude will inspire. As a champion of human rights I desire no better banner to fight under than our constitution. Its glorious principles will animate me in the struggle; and in its defense I will plant myself on the broad platform of democ-

racy, there to stand firm and immovable as the mountains of my native state, whose feet are imbedded in the ponderous immobility of earth. As a parting word to my opponents I will say that the criminations I have dealt in I have no desire to recall; and the severity I have indulged in I have no wish to soften. They have made the lightning their couch, and they shall lie there flayed.—*Wisconsin Democrat*, Feb. 20, 1847.

## REMARKS OF MR. COLLINS, FEBRUARY 6, 1847

(Mr. Collins had not been an uninterested though he had endeavored to be a disinterested listener to the debate of yesterday on the bill before the Council.)

It has been and is my desire, without prejudice or improper feeling, to meet it fairly and on its merits. The object proposed by the bill is certainly a fair one, and proposed to meet a contingency which can happen and may happen. A new or another convention for forming a constitution in the event that the one now submitted to the people for their adoption or rejection should be rejected is what all or nearly all of us would desire. A provision for holding another convention, if it should become necessary, ought to have been made in the law providing for the convention which has already been held, and no doubt such a provision would have been made, had the previous legislature while making that law anticipated that the constitution which they were then providing for would not before the present time have been passed upon by the people. But I dare say that the legislature never suspected that the convention would sit such an unnecessary length of time and then put off the action of the people upon it to so late a period. And why, Mr. President, was the time for such action fixed at so late a period? Did the members of the convention suspect or know that the people would condemn the instrument of their making, if it was submitted them to be acted upon at a day so early that they could not have time to make their work good "on the stump?" Was it deemed necessary that any odious features in that instrument should be explained away? Or did they think that the people of the territory in their great hurry and anxiety to emerge from a state of territorial existence would on finding no provision for a new convention and consequently unavoidable delay vote for and swallow the constitution however unpalatable? I understand and contend here that this is the argument in favor of the instrument, and hence the opposition to this bill by the friends of the constitution. Honorable gentlemen opposed to the bill on this floor do not use this argument, to be sure, but it will become an argument

and with many a powerful argument, to influence and carry votes for the constitution. I see great propriety in putting the instrument on its merits. Untrammelled and independent action by the people is certainly desirable to all well-wishers for the future state. Trammelled, forced, or purchased action in so important a measure is to be deprecated.

I have said that the provision sought by this bill ought to have been made in the law authorizing the past convention. Why it was not done I think I have given the probable reasons already. We ought to begin where the previous legislature left off. It seems to me that such action is expected of us—it is certainly called for. If our neglect to act in this matter at this time should cause delay in getting into the Union, we shall justly be censured, and even if the constitution should be adopted, we shall be censurable. Our duty requires us to provide for every possible contingency that may happen. If while the previous legislature was acting upon the law under which the convention was held the proposition had been made to meet the case aimed at by this bill, no one would have discovered any impropriety in it, and no one I dare say would have opposed it; if it would have been wise and proper then, it is so now.

The objects of this bill are easily seen and understood, and the only trouble is that they seem to be more than understood. The friends of the bill wish no delay in forming a state government and wish to put the constitution upon its own intrinsic merits by removing any and every impediment in the way of obtaining another, and to prevent the “no alternative” from forming any part of the inducement to adopt the present constitution or none. The opponents of this bill, who more than understand its objects, say that the passage of the bill will be “prejudging and condemning the constitution.” This is the only objection, and—I was about to say argument—against this bill; but there have been no arguments made here against the bill. “Prejudging the constitution” is the cry of three or four gentlemen opposing the bill. How, I ask, is it prejudging the instrument, to say by law here “that in case the constitution should be rejected by the voters of Wisconsin in April next, a new convention may be held?” This is idle declamation—assertion bare, unwarrantable, and absurd. Why do not the opponents of this bill reason like men—like men moved by a lively faith? Why indulge here in idle and worse than idle declamation? Why not point out to us how our action can be construed into prejudging? Why, Mr. President, the very position and appearance of the opponents of the bill argue to my satisfaction that they have but little confidence in



the constitution and less in the people themselves. Men who dare not trust a proposition upon its own merits cannot be suspected of having confidence there; men who dare not trust the sovereign people have not confidence in them. With the privilege of making another, honorable gentlemen here dare not submit the present constitution. Of which of the two are they distrustful—the constitution or the people? Honest men, having honest cases, are not usually afraid to submit them to their peers; but rogues before an honest tribunal have a “mighty and fearful looking for [sic] of judgment.” But suppose, Mr. President, we admit the assertion for the purposes of this debate that our action in favor of the bill before us will amount to prejudging; and what has it to do with the merits or demerits of the constitution? Gentlemen opposed say we have no right to prejudge, and the gentleman from Rock has exhibited an astonishing degree of modesty about doing that which his constituents do not ask or expect of him. Admit it then, Mr. President, that we have no right—that we are not called upon to prejudge, and who will be affected by it? Dare the gentlemen from Rock, from Walworth, and from Iowa assume, as they have done, that the people know our rights and our duties as legislators and have sent us here for specific and defined purposes, and then say that their reason and their good judgment are to be dethroned and set at naught by any unauthorized and illegitimate action of ours in passing judgment upon this instrument? Gentlemen dare not say this at home among their constituents. There they flatter; they bow to the people—there the people are the intelligent, the honest, the firm, fixed, unmoved, and immovable sovereigns. No dish of choice selected and beautifully arranged flattering epithets is too nice to be lavished upon them. Stand to it here then, gentlemen, though you are not under the immediate eyes of your constituents. Show that you have confidence in the people still.

Again, Mr. President, the gentleman from Rock seems wonderfully tender of the members of the late convention. This does great credit to his heart—and is, I honestly think, unnecessarily alarmed lest by our action in passing this bill we, as well as prejudge the constitution, reflect upon the wisdom and soundness of the convention of men who formed it. What a pity!

While on the subject of reflection, let me ask the gentleman from Rock what kind of reflection he casts upon the sovereign people when he assumes that our action favorable to this bill would be a sentence of condemnation of the constitution and will endanger its adoption? Does he mean to say that after the people have sent their

one hundred and twenty-five delegates to the capitol expressly for the purpose of forming a constitution, and that duty has been performed by them in a highly satisfactory manner, that they will know no better than to reject it because we have condemned it? Does he mean to say that the people are looking to us for an expression of opinion by which they are to be governed—that their faith is pinned to our skirts—that they are hoodwinked and cable-towed and have no independence of thought or action? Does the gentleman's argument amount to anything less? I venture nothing in saying that the gentleman dare not insinuate as much at home amongst his constituents; and why not have the courage and manliness to say in the faces of his constituents in plain terms what he says in argument or by construction here? Who could have suspected a Democrat of talking thus? From the gentleman's notions of the doctrine and principles of Whigs, aye, federal Whigs, I suppose he would call such talk and such treatment of the people the natural offspring of Whig principles and feelings. I almost suspect the gentleman of having been a Whig, and, according to his views of them, of the strictest sect.

(Mr. Palmer here interrupted and desired to know if the councillor from Dane intended to charge him with having been a Whig.)

I have no positive proof that the gentleman has ever been a Whig and will not make the charge. I hope he never has been a Whig; if he knows what it is to be a Whig, and has enjoyed it, I should feel called upon to pity the gentleman in his fallen condition; his last estate would be so much worse than his first; but I do undertake to say that his expressed opinion of "the people," whom Democrats and Democrats only love so dearly, smacks strongly of that which, coming from a Whig, he would call regular old-fashioned, "black cockade" federalism. Whig, as I am—and I am nothing else—I never reflect upon the good sense and good judgment of the people, as the gentlemen from Rock and from other districts have done. I have more confidence and greater respect for them.

But, sir, I do not intend to drag into this debate parties or politics. This need not and ought not to be made a party question or decided upon party grounds. I should not have said a word about Democrats, Whigs, Federalists, or Abolitionists, if the opponents of the bill had not done so; and as most of their remarks have been about these several political sects, I could not pay respectful attention to their speeches without it. Neither do I deem it necessary so far as the passage of this bill is concerned to pass our opinion upon or discuss the merits of the constitution. It is doubtless proper to do so;

it is proper to enlarge upon its demerits and defects by way of estimating the probabilities of its being rejected; for if its adoption is certain, there is no necessity for the passage of this bill. If it can be shown to have glaring defects, unwholesome and unwise provisions, then we may calculate more largely and more certainly upon its rejection, and this will assuredly be an argument in favor of the bill. Many unanswerable reasons were yesterday given by the councillor from Milwaukee (Mr. Wells) who did not meddle with the constitution, pro or con. Various arguments in favor of the bill by way of objection to the constitution were made by the gentleman from Racine (Mr. Strong) and how have these gentlemen and their able arguments been treated? They have not been met nor have they been answered, and I feel bound to say that they have not been fairly and handsomely treated.

And here I must pay a little attention to the gentleman from Walworth, and will give him credit for one candid admission, whether he intended it or not. He admitted, or rather averred, that the speech of the gentleman from Racine "was marked with great deliberation and forethought." But how comes the gentleman and with what spirit did he give utterance to this expression? Not by way of compliment, sir, but by way of answer, to repel the force of the argument; this I consider to be a singular mode of answering arguments, which are styled "deliberate and well-digested arguments." I said, Mr. President, that this mode of refuting arguments was singular. It is so, sir, and not only singular, but very peculiar indeed to this occasion. I wish it were otherwise. I wish the gentleman from Walworth, instead of saying in the outset that he should not attempt to answer Mr. Strong's lengthy speech, but should content himself with "tracing his (Mr. Strong's) career since he left the constitutional convention in disgust," had have paid him "in kind." It would have been more honorable, more dignified, and quite as much at least to the purpose. Mr. Strong did himself honor in resigning his seat in the convention and returning to his constituents if he found to his satisfaction that an ungovernable spirit of radicalism was prevailing there. No honest and honorable man could have done less. I do not say, sir, that such was the case in the convention, for I am happy to say that I was not there, but it is sufficient if he thought so.

I am happy, Mr. President, to accord to the gentleman from Racine great credit for his able speech of yesterday. In many particulars it was not only deliberate and well digested, but ingenious. It was statesmanlike because it was honest; yet in many respects I must differ with him very widely. I must differ with



him in his comments upon that article of the constitution providing for the exemption of forty acres of land and in some cases its equivalent. He opposes the article, and so do I. He opposes the principles of the article, but I do not. The article is defective in form and effect, and not only that, but it is not wide enough, broad enough, or long enough. Every man should be protected in his homestead, be the same more or less. The principle of cutting up and dividing as contemplated in the exemption article leaves everything unsettled and uncertain. It is as well and better for the creditor when he is about to give a credit, as well as for the debtor about to receive it, to know with certainty what property of the debtor is exempt, and to be governed accordingly, if it is to the property and not to the man that credit is given. If a certain amount in dollars and cents is to be exempt from forced sale, then every day and month with its circumstances may change the debtor's condition. That which today is secure to the creditor because of its value under a certain amount may tomorrow be liable because circumstances have increased its value. It may be in property not susceptible of division. Then what is to be done? Is the debtor to be turned out of doors? If amount and not quantity or specific property is to govern, who is to give the value by which it is to be determined whether the creditor or the debtor holds? Shall it depend upon the judgment of men? Then the matter is unsettled, for men differ. Today by one set of men it may be adjudged of less value than the sum fixed in the law; tomorrow by another set of men it may be adjudged to exceed that sum. There is nothing fixed and nothing certain. Who can tell what may come of uncertainty? There is too much machinery about this provision, and [it] requires too frequently to be put in operation to make it safe or desirable to either debtor or creditor. But fix it by measure and bounds—by quantity; say that as to all debts created after the adoption of this constitution the homestead, the farm, or some other definite thing shall be exempt from execution. "He who runs can then read," and the creditor, "though a fool, may understand it." The creditor who gives credit can understand this and need never be deceived by false representations of value, quantity, or otherwise. Litigation, destruction, and vexation cannot grow out of this, but the provision as it now stands seems pregnant with thousands of evils.

But it is said in opposition to the principle of exemption that it will destroy the credit system, and this is proved by making property the basis of all credit. In heavy operations this is to some extent true. In such cases credit will still be based upon property; but in

ordinary neighborhood transactions let us get up a higher, nobler, and more exalted basis of credit; let honor and honesty, virtue and temperance form the basis of credit; the convenience of credit will raise up this basis. Men will be honest when fully satisfied that "honesty is the best policy." The human mind has a wonderful faculty at accommodating itself to circumstances.

Again it is said that under this most benevolent provision great fraud will be committed. It was always so in all ages and climes and under all governments and laws. Rogues were always smarter than law-makers. But let us throw around this provision all the safeguards that wisdom, ingenuity, and experience can invent; it is our duty so to do. But whatever we do, let us not provide for the benefit of the rich, so that poor men may be driven through poverty, administered by ruthless creditors, into despair, degradation, and crime. Man is elastic and can be bent—and he can be broken. Most men will steal sooner than starve. Let no man under sanction of the law in Wisconsin be made a beggar or be tempted to become a thief or a robber. Poverty is the father of much petty crime. Reduce men to extreme poverty, and they are placed under extreme temptations. Make property the basis of credit by law, and property alone, and a slender provision is made for the poor man. Take from the poor man, who has but little at best, "even that which he hath," and what shall we be doing for him? The abler man is more generally the creditor and is the more generally legislated for, notwithstanding we aim or profess to aim at protecting the poor man. The clemency of the law is what the poor of this country have yet to become acquainted with; the law has demonstrated to them the truth of the adage that "it is hard to make a dollar of nothing."

It may be answered, sir, that to protect a man in his homestead, for instance, without reference to its value or extent, would operate unequally and unfairly because while one man would be protected in much, another would be protected in but little. Who then is to complain and make opposition to the principle? Certainly not he who is protected largely; this would be quite unnatural. Would it then be the man who is protected a little, and that little composes his all? For him it would be superlatively absurd to oppose the principle of the law which secures to him all he has merely because it does not make him equal, according to his notions, with his neighbor. No, sir, objection does not come from either of these quarters. Then where does it come from? From those more likely to be creditors than debtors, who have cases in hand, perhaps, that cannot be

affected by the provision contended for, whose very minds are blinded and prejudiced by these circumstances so that they cannot see light and would not if they could. Just as I expected.

Again, though one man would be protected at first view to a greater extent than another, it is not really so when we examine the subject a little. And why? Simply because what would be a competency for one man would not be so for another. Men are naturally different in tastes and desires, but perhaps more so from education, and more different still by necessity and circumstances. Our everyday observation teaches us that some men with small families perhaps can be made comfortable and happy and feel perfectly accommodated with a small cabin and forty acres of land because from their little farms and in their little cabins they can get all the comfort that their ambition ever coveted. These men, perhaps, are naturally unambitious for more in this way, and may never have enjoyed more; they are then content perhaps so far as house room, etc., is concerned. If they had hundreds or thousands of money, they would derive far more satisfaction and pleasure from counting the usury that might be had on a loan of their money than from enlarging and improving their humble abode. This is their passion, their taste, their ambition. Others, we see, who from the same causes, to wit, education, etc., are entirely different, and who could not even make the ends of the year meet, and much less be happy and contented with such allowances; and they, like the other class, have accommodated themselves to arrangements and different allowances, and to just such as suit their tastes, convenience, or necessities. Now, are not the homesteads or farms of these respective classes of equal value and importance to each? With those who do not measure life and enjoyment by the scale of dollars and cents there is no difference; then these classes by the provision I contend for would be equally under the protection of the law. The object of exemption is not to protect the poor debtor alone, but to protect and save his wife and children from the grasp of unrelenting creditors. The protection is to persons having souls and not to men of straw; and what kind of equality is it then to measure in dollars and cents what a man may call his own? Talk about the equal operation of a benevolent law which secures to a sordid old bachelor without child or chick one thousand dollars, and to a man with a family of ten children and a feeble wife the same sum! May you and I, Mr. President, be delivered from such notions of equality. Let the homestead be exempt, and let every man and every man's wife and every man's children experience the benefits of such a humane pro-



vision; and if he with the ten children is so fortunate as to have moulded his place to his family, let him and his family be able to say, "By God's grace, this is ours." Let the world know this, and while this family may rejoice, who is to be the sufferer in consequence? Some of the opponents of this humane principle are ready to answer, his creditor; another who has foreseen the destruction of the credit system under this provision says, not exactly his creditors, for he who has a valuable homestead and farm secured to him "constitutionally" cannot get a credit. Well, gentlemen, which way will you have it? One thing is certain, if having something secured to a man is bound to destroy his credit, and such a constitutional provision should be made, men will do well to get rid of what little they may have, by way of securing credit, before such a constitution should be adopted; clean hands and clean pockets above all would be the order of the day, and men would be safe, for I am going to show by way of answer to this most absurd argument about credit that the everyday practice of this whole community shows the fallacy of it. By a law of the territory, which is similar to the law of almost and perhaps every state in the Union, certain articles of personal property are exempt from execution. Will it be contended here that men who have no property, saving such as is exempt, cannot or do not obtain credit? Or will it be contended that men never get credit beyond the amount of the excess of their property over and above the property exempted? I think no one will dare assume this position because the everyday practice of every class and calling in this community will prove the incorrectness of the position. Are not men credited every day more or less who have nothing but what the law does protect? And how is this credit obtained? And to what does the creditor look for payment? Do our merchants purchase largely on credit at the eastern markets, who have little or no property either exempt or not exempt? Most certainly. Suppose these same men to have, each one, property to the amount of two thousand dollars, and that by the law of the land they could hold against their creditors this amount of property—how can it be shown that they would be more undeserving of and more unlikely to get credit than when they had nothing at all? It puzzles me to find an argument to show it, and I cannot believe that such can be the case. But, sir, I must leave this branch of the subject and the further remarks upon the merits of the constitution and notice before I close some more of the remarks made by gentlemen opposed to the passage of the bill.

One grand objection raised by a professing Democrat is that it is a Whig measure, seconded by a few ambitious and disappointed Democrats, and a finger is pointed directly at the honorable gentleman from Racine, whom I believe to be an old and consistent Democrat, and one who has long been looked up to in this territory, and who has never heretofore been charged with being anything but a Democrat. Now I think the gentleman from Racine abundantly able to take care of himself, and I will not make his case any worse by attempting to defend him. We Whigs can help him only by abusing him; a little of such treatment will restore him to the bosom of the great Democratic family; and while I will not attempt his defense, though he deserves better treatment at the hands of his fellow Democrats, I must be allowed to say that I am quite delighted with every little quarrel in the great and harmonious Democratic family; and what is peculiarly amusing about it is that these old, long tried, ever true, "Jeffersonian" Democrats of two, three, and four years' standing through their "progressive" wisdom can teach regular Democrats that they never were Democrats and undertake to read them out of the party. "Old things are being done away and all things are becoming new," and the newest thing yet is that it has been left to "progressive" Democracy to discover the wonderful art of making fifty-year-old Jeffersonian Democrats out of real federal stock in the humble space of from two to four years. This is not only a great country, but a very wonderful age in which we live.

I said, Mr. President, this bill had been styled a Whig measure. Be it so—I am willing if the Democrats wish as a party to oppose the measure, though I think the two honorable gents from Racine and Milwaukee, as ably as they have supported this bill, can hardly be called good Whigs. Talking about Whigs reminds me of the apology of the gentleman from Rock for the sixth section of the article on banking. This he calls a Whig article and claims that the Whigs carried it in spite of the Democrats. This is really complimentary to the Whigs—I know they are rascally fellows and always leading confiding Democrats into difficulty. I am aware that there is a great deal of life in a few Whigs, and that a few of them give life to a large body—that they are lively stones in a building—but who would have thought that there was leaven enough in fifteen Whigs to have "leavened the whole lump" in the convention of one hundred and twenty-six members. This is indeed encouraging and leaves room for hope that the Whigs here may yet save the state.

In this connection, sir, perhaps I ought to notice the gentleman from Iowa, but I hardly know how to do it—and I beg that if in attempting to answer him I should so far forget myself as to sail under him and say something about the merits of this bill, the gentleman will pardon—his flights were too lofty for me. I am a little afraid of these aerial excursions, and in his boldest flights I was about to call him to order as traveling quite off the record. I could hardly restrain myself from calling out to him in a loud voice, “Come down, my friend, some things can’t be done as well as others,—the good people of Wisconsin can never make a constitution that will take jurisdiction of your immense altitude”; but he came down, sir, and with such a sprinkling of Holy Writ, Shakspeare, and poetry that I did not find my way out during the balance of his speech, and I am compelled to leave the gentleman.

This bill has met with violent opposition—I wish I could say, with fair, dispassionate and candid arguments. Why it has been so met appears to me strange, if gentlemen are entitled to any credit for sincerity. For they tell us that the constitution will have the undivided support of Democrats, and they, I am sorry to say, for other purposes than this, are pretty plenty, and since nothing can stop them I really wish that this bill might pass, particularly as according to loud declaration it cannot hurt the constitution and will cost no more to pass than to reject this bill. The grand difficulty is, in my humble opinion, gentlemen wish and hope it may be so, but have not confidence that the constitution is sure to be adopted. They are willing on speculation to take what seems to be the loudest here as the voice of the people of the territory, and yet they fear. Now, sir, I will not undertake to say how the vote will stand in the territory, but I do undertake to say that if gentlemen judge from appearances here at the capitol they are quite likely to be mistaken. The would-be champions of the constitution and democracy are here and whether they would or not they may mislead their confiding brethren. It is peculiar to the place itself that men should lose their “reckonings.” The principal streets in our little city run diagonally with the cardinal points of the compass, and in a cloudy time strangers from that cause become bewildered and lose all idea of direction—the weather vane aloft does but little for them. So with the political avenues and the political vane—there is the greatest imaginable sympathy between the two arrangements. Here “the wind bloweth and we hear the sound thereof,” etc.



One more argument in favor of the constitution and of course against this bill I must notice, and I have done. It is, sir, that there is in the instrument itself a provision making it easily amendable. If there were no other, sir, this would of itself be an objection to the instrument. What a humiliating sense of feeling must have possessed the convention when this provision was made, and how very proper and much needed was that spirit of humility. This very act of theirs was a reflection. Gentlemen talk to us about reflecting upon the convention by passing a law which presupposes that the people may reject the constitution. We but take the convention at its word when we take the liberty to think it will be rejected, for the convention virtually impeached it, and the people are not supposed to want work that cannot be warranted. And in the same breath the opposers of this bill say the will of the people is expressed by authority in that instrument, the members of the convention having been taken fresh from among the people, while they dare not submit along with the constitution the privilege of taking it or the privilege of making another. What consistency, and how becoming to honest legislators!

This beginning to change a constitution before we begin to adopt it will never do. If any of its provisions are mischievous in their tendency, more mischief will be done while we live under before it can be amended than courts can rectify in an age—trouble and litigation may cease when children yet unborn may have outlived the very memory of their ancestors. It is idle to try calculation at the evils—litigation grows best where imagination can never plant. I cannot listen to these amendment persuasions.

The constitution is to the civil government of the state what the foundation is to the superstructure—unless it be sound in material and properly put together the superstructure is constantly in danger, and a “tinkering” with the foundation, if it does not destroy, endangers the whole.—*Express*, March 2, 1847.

## DEBATE IN ASSEMBLY, FEBRUARY 9, 1847

Mr. Morrow moved to take up council bill No. 32, to amend an act entitled, "An Act in relation to the formation of a state government in Wisconsin," approved January 31, 1846, and that the same be indefinitely postponed.

Mr. Brown of Grant addressed the house, as follows:

Mr. Speaker, the bill before us is one which has been introduced and matured in the other branch of this assembly and has now come before us for our adoption or rejection. The bill provides for the calling of a new convention in case the constitution now submitted to the people does not meet with their approbation. It appears, sir, that this bill calls in question the merits or demerits of another document which is now before the people of the territory for their reception or rejection in April next, to wit: the constitution for the state of Wisconsin. It is contended on the part of the opposers of this bill that if we pass it, it will be a great impediment or rather a stumblingblock against the adoption of the constitution. Is this so, Mr. Speaker? I certainly beg leave to differ with the opposition. Are there not hundreds, yea, thousands of names on these petitions who have declared themselves in favor of the constitution? They certainly cannot answer to the contrary. The petitions have come pouring in from every part of the territory ever since the first week of the present session and they are now swelled in the aggregate to the enormous amount of four or five thousand. Do you believe in the right of instruction? If in the affirmative, what are you going to do with these petitions? Look over them, not notice them, or smother them here in the assembly? Repudiate them, spurn them from you with contempt, and say to the petitioners—you ask for something that you cannot get—you ask too much—you shall not be heard. We cannot grant you such request, merely because we have come here with fixed and prepossessed principles, which all your petitions cannot move.

The people of the territory have once decided by a large majority in favor of state government, and for that purpose there has been a constitution framed, and which there is a great difference of opinion about, and which there is a possibility of being rejected. This I presume no one will deny, and if there is a possibility, why not prepare for the contingency? Is there anything wrong in it? Where is the difficulty?

Why, they say if this law is passed it will be tantamount to defeating the constitution, for the people will see a way to get rid of this enormous evil which is hanging over their heads. By rejecting this and preparing to make a better one, is this the way to treat the people who petitioned in such great numbers for the passage of this law? Is this adhering to the right of instruction? Is this in accordance with the wishes of the people? These petitions, sir, prove to the contrary. Gentlemen cannot foresee the consequences resulting from the defeat of this bill. It cannot be disputed by any member but what the people are ripe for state government. Now, sir, if we refuse to make the necessary provisions for a second convention, and the constitution should be rejected, which no one will dispute but what there is a possibility of, there would be no remedy until the next meeting of the legislative assembly. Again, sir, Congress has received the present constitution—perhaps they have already acted upon it—and perhaps they have accepted it. If so, there is some doubt whether Congress will at this state of the proceeding appropriate any funds for another session to be held in the territory. Then is it not our duty to prepare for such contingencies when we can do so and save a great expense to the territory with no expense to the present legislature?

And again, sir, should there be no appropriation made by Congress, and this subject being not considered by the governor a sufficient emergency to call an extra session, how will the people obtain their remedy? The law of Congress is explicit on this point, for it says, "There shall be no session of the General Assembly held in the territory until there has been an appropriation made by Congress to defray the expenses thereof."

Now, sir, if there is no appropriation made by Congress, no sufficient cause for the governor to call an extra session of the legislature, the people are entirely without a remedy and consequently will have to remain under a territorial government for years to come. It appears that the most of the friends of the constitution are opposed to this bill for fear, as they say, it will defeat the reception of the constitution by the people. Now, sir, this is as much as to say to the people that you must take that constitution with all its crudities and imperfections or go without any—a kind of force put to compel them to accept a thing they do not like.

Mr. Speaker, if I understand anything about the thinking minds of the people of this territory, they are not going to be gagged by such false doctrines. The time has long passed since the doctrine of persecution has been taught and that of toleration substituted



in its stead, the latter of which by all means we should hold forth upon the present occasion, and which will be in my opinion far more acceptable to the people.

The constitution should by all means stand upon its own foundation, independent of this bill or any party prejudices whatever. It should by no means be made a party question, it being a fundamental law of the land, framed for the government of the whole people and not for the government of one particular party which might have the good fortune at the time of its adoption to be in power. If this was the case, a constitution might be adopted by one party, the people after trying it a while become dissatisfied with it, and conclude to try the other party, and the first thing the other party would do would be to amend the constitution. They effect the amendment, and perhaps the people are no better satisfied, and so vice versa, and as the party changes so will the fundamental laws of state change, if it is known at the time that it was adopted upon party principles, just as the laws of Congress change upon the great tariff question. But the friends of the constitution see that unless there is a strong effort made and that every means are applied which can be in its favor, that the monster is down together with all their labor, time, and expense to secure its acceptance. I will admit, sir, that it is in the situation of a sick, insane, and deformed child, and unless it is well taken care of by the best nurses and physicians, it will perish in its infancy; but should it by all this nourishment ever happen to arrive at full age and growth, I am fully satisfied that it cannot in its present shape and under its present controllers ever be relieved from its present deformity, and its sensitive organs are so stunted by its crudities that they never can be developed to the world through its thick cranium. So it never will be of any use to the people in its present shape, and it is admitted even by its strong friends that it must undergo a change to render it useful to the people whom it is intended to govern.

And do gentlemen presume to drive the people into the support of such a measure? What will these petitioners say when they hear that this has been the cause of the defeat of this bill—the fear of their not voting for the constitution? Will they not take umbrage at such proceedings? And in place of its operating as gentlemen think, there might be a possibility of its operating to the reverse, and I hope it may. The names of those persons which are affixed to the petitions will say to the friends of the constitution that if you could not condescend so much as to grant us our request, you may rest assured we will not grant you yours, and they can do so with the

same propriety. The right of petition must be adhered to, and when you begin to turn a deaf ear to petitions, that moment you begin to trample upon the rights of the people. We have listened to all other petitions that have been presented, and why not to petitions on this subject? Why, merely because they are afraid that if they pass this bill, the people of the territory will not adopt the constitution.

Mr. Green was opposed to the bill under consideration on its merits, independent of other considerations. The election districts proposed by it were not properly formed, and if it should become a law, would lead to endless confusion and difficulty. For this reason alone he felt called upon to oppose it.

Mr. Winslow first called and then withdrew the previous question.

Mr. Hobart offered the following amendment: That the bill be referred to a select committee with instructions to report an amendment, allowing the qualified electors to vote on the adoption of the constitution the privilege to vote on the question of holding another convention to frame a constitution, and if the present constitution should be rejected by the people and a majority of the votes polled should be in favor of another convention, then the provisions of this act to be in full force and not otherwise.

Mr. Richardson said: I do not rise for the purpose of making a speech, for I am well aware that there is no disposition upon the part of a majority of the members upon this floor to indulge anyone in lengthy remarks upon this subject. I only wish to make a few brief remarks before the vote is taken. I contend as does my colleague (Mr. Brown) that there does exist a necessity for the passage of this bill. I ask, Mr. Speaker, if the knowledge of the existence, of the necessity, of the passage of any law is not that the people or the legislature conceive it necessary? Now, sir, in this case the people say to us, their representatives, by largely petitioning, that they want a provision made for calling another convention in case the constitution is rejected; and I ask if it is not our duty to make such provision in compliance with their expressed wishes? I hold it is. The opponents of this measure have accused the rank and file of the Democratic party of being made up of materials which I, although a Whig, do not believe they are. They argue in this way: To provide for another convention will have the effect to prejudice the constitution in the minds of the people; and to show that this accusation must apply to the Democrats alone I have only to state that the opponents of this measure themselves

acknowledge that they believe the Whigs as a party will go in a mass against the constitution whether this bill passes or not. Now, sir, this kind of argument to my mind is just saying to that part of the Democratic party before referred to, "You have not sense enough to know what is for your best interest, while we, your representatives, possess that knowledge, and we tell you the constitution is just the thing you need and you shall take it just as it is or remain out of the Union some two years, which you have declared your opposition to by a direct vote. But we know we have a screw upon you and we are determined not to let up, but force you into one of these alternatives." Now, Mr. Speaker, I do not believe that the Democracy of Wisconsin will quietly submit to such coercion, and as to the Whigs, I venture nothing in saying they will not. And, sir, I am proud to stand here in my place and state that I do not believe that the Democracy of my county is made up of any such materials as the arguments of the opponents of this measure would warrant.

Mr. Speaker, I do not profess to be a Henry Clay or a Daniel Webster, nor yet, if you please, a James Buchanan, or a Thomas Benton, but one of the representatives of the people of this territory in all things pertaining to the whole territory and in other matters of the people of Grant County, and as such I have duties to perform upon this floor which I will fearlessly perform unless I am gagged; and if gentlemen upon this floor suppose that I would sit here silently and see the rights of my constituents trampled upon and their wishes disregarded in this manner, they are mistaken in Buckeye timber for once. If I had no higher duty to perform upon this floor than to serve party I most certainly would sit here silently and let this measure be defeated, for I assure you, sir, that in my opinion if this measure is defeated it will be a heavy blow to the Democratic party; but I have higher duties to perform. Permit me, Mr. Speaker, to say in conclusion that my opinion is, if the constitution is accepted by the people, it will be done upon party grounds, and the Democratic party will have to suffer drilling to effect this. If this is to be the case, be it so, and I ask for a precedent for this course. Now, Mr. Speaker, I do not believe, as I have before stated, that the Democracy of Wisconsin will suffer themselves to be drilled. A few designing individuals may; but that the rank and file of the party will I do not believe. And I do not envy the position of any gentleman who has stood here in his place and charged that his party is made up of such servile creatures.



Mr. Speaker, I do hope that the proposition offered by the gentleman from Sheboygan will be sustained. It contemplates the possibility of the people being opposed to calling another convention soon, although they may reject the constitution.

Mr. Speaker, inasmuch as the gentleman from Iowa has made a charge upon the delegation from Grant, in having overstated the number of petitioners upon this subject, I ask the indulgence of the house while I reply to the gentleman in a few brief remarks. In the first place, my colleague (Mr. Brown) stated that some three of four thousand names appeared here on petitions upon this subject, and I stated that petitions from almost every part of the territory. The gentleman from Iowa has admitted by his own showing that the names of nearly four thousand petitioners have appeared as before stated, and some two or three hundred on remonstrances against this measure; and the gentleman argues that he is not called upon at all to go for this measure, and if the people feel such a deep interest in this matter, as Whig gentlemen upon this floor would have us believe, they would have petitioned more largely upon this subject. Now, Mr. Speaker, the gentleman's reasoning proves conclusively that the people are in favor of this provisional law, or they would have largely remonstrated against the measure, which we find is not the case, and I deny that we are to infer that the people are opposed to this measure from the fact that a majority have not petitioned. I hold that it is the imperative duty of legislators to contemplate all probable contingencies during the recess of the legislature by providing for the same—and will any gentleman upon this floor attempt to deny the probability of the contingency before named—and I believe the people take the same view of this matter that I do, which accounts for the small number of petitioners. I am willing to comply with the wishes of the petitioners—and the gentleman from Iowa seems unwilling to take any responsibility upon himself—and will comply with the wishes of those who remonstrate against this measure. I am willing to leave the matter to the sovereign people to decide which of us pursues the most democratic course.

Mr. Bronson said: Mr. Speaker, I have no desire to make a speech on the question now pending, but merely wish to state in a few words the reasons that impel me to vote against the indefinite postponement of the bill now before the house. When I left home there was considerable feeling against the constitution even among the Democratic party. Many advised me to give my support to a

law providing for calling a new convention in case the constitution should be rejected; and since the commencement of the session I have had an extensive correspondence with my friends on the same subject, a majority of whom have advised me to support the measure under consideration. In addition to this the petition of about five hundred citizens of Walworth County has been received, asking for the passage of this bill, among whom is a respectable number of good and substantial Democrats. But whether Democrats or Whigs, I cannot treat their petitions with so much disrespect as to support the previous question or the motion indefinitely to postpone. A question of as much magnitude as the one now before us is in my opinion entitled to more respect, to a more serious consideration than it appears to receive.

I am opposed to disposing of any subject of as much importance as the one before us in this summary manner. And let me here remark, that I do not believe that this attempt to cut off investigation and discussion will be of any advantage to the constitution. Why this haste? Why this attempt to apply the gag rule? Let the bill have its regular course. Let the friends and opponents have a fair chance at discussion; and then, if the bill is rejected, we will be clear of one aspersion that will if the motion prevails most assuredly rest upon us, viz., a want of courtesy to the friends of the bill.

Gentlemen know that I have expressed opinions against the policy of passing this bill. I might now, if it could have its regular course, vote against it; but I cannot without doing injustice to my feelings vote for an indefinite postponement.

Some gentlemen may sneer and apply the epithet "crawfish." But, sir, it will have no other effect on me than to excite pity for that man who has not the moral courage to recede from a position when he knows that that position is wrong. As for me, I have no desire to be numbered among those

Who know the right and approve it too,  
Who know the wrong and still the wrong pursue.

Mr. Brown of Milwaukee moved to recommit the bill and amendment to a select committee with instructions to report tomorrow morning. Mr. Morrow was opposed to the motion.

Mr. Hobart was not in favor of the bill now pending. He thought it needed perfecting in many essential particulars, and he desired by his amendment to try the mind of the house upon the question of submitting to the people the calling of a new convention in the event of the rejection of the constitution.

Mr. Morrow said the bill under consideration presented a plain case to the house, and his object in calling the previous question on yesterday had been to cut off a debate which was wasting the last hours of the session to no purpose. Members, doubtless, all had their minds made up, and further delay in settling the question he regarded as a cowardly attempt to evade a responsibility, which as a legislature they ought at once to assume. As for the remarks of the gentleman from Grant (Mr. Richardson) he was not prepared to admit that he was a very proper judge of what constituted Democracy.

Mr. Richardson did not agree with the amendment proposed by the gentleman from Sheboygan. He thought the plan proposed a bad one and anti-Democratic.

Mr. Hobart did not acknowledge any man in Wisconsin as an expounder of Democracy. He had made it a rule to judge for himself in the premises, and he would tell gentlemen who were constantly carping on the subject that as good Democrats as were on this floor had concurred in the amendment which he had proposed. He had been taught that it was both democratic and proper to submit questions of this magnitude to the people and had yet to learn that the position was not correct.

The people of Wisconsin are both willing and anxious to come into the Union. By the proposition submitted they can do so if they see fit, or they can exercise their sovereign will by refusing and by their votes providing for calling a new convention. While he could not vote for the bill as it stood, he thought the people had a right to demand some action upon the subject.

Mr. Morrow pronounced the amendment proposed an ingenious artifice and evasion, and that its passage would inevitably tend to defeat the constitution. He considered the gentleman from Sheboygan an enemy of that instrument.

Mr. Hobart would not reply at length. His conduct after leaving the legislature would determine whether he was friendly or not; and it might even be possible that his efforts would accomplish quite as much as those who were so profuse in their professions of exclusive friendship.

Mr. Jenkins said: Mr. Speaker, I do not rise for the purpose of entering into a lengthy discussion of the merits of this bill. I voted on yesterday to sustain the call for the previous question, believing it to be the only way to get rid of this bill without consuming the remainder of the session. I do not therefore intend to take



up the time of the house by debating it today; but I have a word to say in reply to the proposition of the gentleman from Sheboygan, and I will only say that I am surprised to hear it from any member who professes to be opposed to the passage of the bill. As to what the intention of the gentleman was who offered it, I shall not pretend to say, but if it had come from the gentleman from Grant, or some avowed friend of the bill, I should not have been surprised, as it is but reasonable to expect of the friends of any measure, when they discover it is likely to be defeated, to offer something as a substitute which would be in effect the same.

Mr. Burns wished to correct some errors which had been made in the statements relative to the number of petitioners for calling a new convention. They had been variously estimated at from four to six thousand; but he had taken the trouble to count the whole number presented to both houses and they were precisely 3,750, including 276 remonstrants. Of the petitioners 2,637 were from four counties only, leaving but 834 from the whole balance of the territory. Only eleven counties in all had sent in petitions; only five had sent over two hundred names; and most of the balance, as Dane, Dodge, Green, etc., had not averaged over twenty petitioners each.

Much has been said here about the people demanding the passage of the bill, and that we were instructed to go for it. He did not believe it. He did not think the house would be warranted in taking any action in the premises. While he had great respect for petitions generally he was free to confess that these—printed, as they all appeared to have been, at one office—and that Whig—came invested with a taint which rendered them very suspicious. He beheld in them not the prayer of honest farmers, mechanics, and laborers, but the insidious schemes of ambitious and designing men. He beheld the corroding tooth of avarice, which would be deprived of its banquet of fat dividends extorted from the sweat of industry by the adoption of the constitution—lurking beneath this specious array of deceptive petitions.

If the opposition to the constitution among the people was as universal as was pretended, we should hear their voices rising from all sides, instead of the meagre show of names which the most desperate efforts among all parties have been able to obtain out of 160,000 people in Wisconsin. If the people felt such an interest as was stated they would promptly act—but here were no petitions from the north, one from the west, and but one from the southwest. And yet we are gravely told that the people here asked us

to act adverse to their delegates in convention upon this most important question!

Mr. Burns expressed himself warmly in favor of the constitution and was willing to trust it with the people on its merits, and he deprecated any action on the part of the legislature which would have a tendency to defeat it.

Mr. Richardson explained as to the number of petitioners. He was not aware of the exact number or of their locality and had only intended his remark as a general one. He still felt instructed to support the bill.

The question on recommitting the bill to a select committee was then taken and lost, ayes 12, noes 14.

Mr. Bronson moved that the house adjourn until two o'clock. Lost, ayes 10, noes 16.

The question was then taken on the indefinite postponement of the bill and carried, ayes 18, noes 7.

Mr. Brown of Grant moved to reconsider the vote. Lost, ayes 8, noes 18.

Mr. Haight moved that the house adjourn until ten minutes before two o'clock. Lost, ayes 10, noes 16.

Mr. Burns asked if the minority really thought they could defeat the majority by any subterfuges and unnecessary motions. If so, he thought they would find themselves mistaken.

Mr. Haight thought the indefinite postponement of the bill not quite proper after the numerous petitions which had been presented for its passage. As a friend of the constitution he should have felt bound to sustain it. He had too much confidence in the people to believe that a mere permission to call another convention would necessarily defeat the constitution. He did not wish to have it go out that we had not paid proper respect to this or any other bill, and for that reason would be glad to see it postponed until tomorrow.

The question on reconsidering the vote was then taken and lost, ayes 9, noes 17.—*Argus*, Feb. 16, 1847.

**PART IV REJECTION OF THE CONSTITUTION:  
POPULAR PROCEEDINGS AND DEBATE**





SELECTIONS FROM THE MADISON *WISCONSIN ARGUS*  
THE CONSTITUTION COMMENDED

[December 22, 1846]

This important document will be found in our paper of today.

We solicit from the reader the most candid and serious consideration of its several provisions. The crude reports which were published while the convention was in session convey no accurate idea of the real instrument after it passed the ordeal of the committee of revision. No more absurd would be the conduct of a person who would judge of a statue by the half-hewn block out of which it was to be cut than was that of the Whig press in declaring in advance against the constitution. They have attempted to forestall and prejudice the public mind—jumping at conclusions before premises were laid. No other course, however, could properly have been expected from them, since it is a policy uniformly pursued by the party to condemn the doings of Democrats whether right or wrong.

The constitution, though not perfect, we regard as one of the best ever presented for the ratification of the people. All the important interests of society are adequately secured, and we cannot permit ourselves to believe that an instrument embodying the essential principles of republicanism and social and political equality can fail of support from the people.

## EXCLUSIVE ORDERS

[December 29, 1846]

It is a fact very generally conceded that privileged orders, whenever and however created, are the bane of society. Especially is this true in the Old World, where such doctrines as social equality and equal political privileges among all classes are looked upon as the dreams of crazy enthusiasts. Governments there are not instituted for the benefit of the governed, but for the benefit of the king and his nobles. To support these pauper drones in splendor and idleness the toil of the husbandman goes for their benefit, while the cultivator himself is left to starve. Labor is constantly stripped of its reward, and all future generations are mortgaged to sustain the follies and extravagances of the pampered despots of the present. Myriads of people are paupers, and whole hosts annually starve to death. This is the known result of favoritism and class legislation throughout three-quarters of the globe.

And has not American legislation created an exclusive order—a moneyed “nobility?” What constitutes a noble in the Old World? It is special exemptions and privileges to which the poor bauble of a title has been added by some despot. The last is only an empty honor, a shadow without substance. Exclusive privileges, then, constitute a “noble.”

The only “order” among us that we have room to notice now is the bank nobility. This class rests its claims for privileges not upon merit or talent, but upon the money within its grasp. It asks that it may be privileged to issue notes, or in other words that it may get into debt to the public for three times the value of its capital—which is called “safe banking.” On these debts which it owes the people and the circulation of which as a currency drives out gold and silver it asks not to pay, but to draw interest! It further asks that notwithstanding it has got into debt for three times the amount of its means, it shall be responsible for only one-third the amount. In other words, that private property shall not be holden for corporate debts. Still further it asks that although it is drawing interest upon its whole issues, yet that they shall not be taxed.

This is banking—these are bankers’ privileges—and we regard them as a most atrocious violation of the rights of the masses. It is giving to the man who has money and who consequently needs no special favors a credit of three times his capital. It is giving him interest on what he owes, and it exempts his property from liability for corporate debts and his bank assets from taxation! Is not this creating an exclusive class, a set of scrip nobility of the most odious description? Yet some men are found even among Democrats who advocate the existence of these swindling monopolies.

It is said of them they are a necessary evil; but what necessity can palliate the violation of the dearest rights of the citizen? It is said they make money plenty; but it is debts, not money, that is made plentier. In short a thousand flimsy objections are raised, but they are only objections to the annihilation of the system. Our scrip nobility have filched from the pockets of the people more money already than would be necessary to improve every harbor and to build every railroad now projected or completed in the whole Union.

#### SIXTH SECTION OF THE BANK ARTICLE

[December 29, 1846]

If there is a uniformity of sentiment upon any subject or question of political character in this county, it is their united condemnation of the sixth section of the article on banking.—*Western Star*.



The above is the starting off of an editorial in the *Western Star* of December eleventh. The editor lets go a half column of ranting declaration against the sixth section as though such a thing as a specie currency had never before been named by either party. It is worthy of a hearty laugh to see our Whig contemporaries draw down their faces with affected astonishment that Democrats should dream of reducing to practice a principle for which they have been contending for years. Why, gentlemen, we are in earnest, and have been all the while—no joke about it.

But what ails the sixth section? The *Star* does not assign a single reason against its adoption. The editor declares perpendicularly that it "infringes private rights, meddles with men's private and lawful business, and will produce an entire change in the laws of trade." But how the driving of bank paper from circulation is to effect all this he does not pretend to say. Indeed, the editor says he has no chance to argue the question from the fact that no one will advocate the section. Not so fast, neighbor—here is a match for you. "Bring forth your strong reasons," and we pledge ourselves to answer them logically or crawfish. Come, give us reason No. 1. Do you say you have? Well, let us see—"It infringes private rights." The deuce it does! Whose private rights? The private rights of bankers to swindle the people, or the private rights of the people to be swindled?

Bankers have long and successfully maintained that it was their peculiar right and privilege to manufacture paper money for the people and by expanding and contracting and affecting prices at pleasure, by suspensions of payment, and by out-and-out failures to cheat, swindle, and rob the people of their hard earnings as often and as extensively as they please. They have from time immemorial watched the growth of the wool and fleeced the people as regularly as a farmer shears his sheep. But the bankers, unluckily, got in the way of clipping so close to the skin that the people began to inquire into their right to clip them at all, and they have pretty much made up their minds that it is not a divine right at any rate.

Well, the bankers have pretty much yielded that point to the popular prejudice, but then they have raised another which they hope to maintain with equal success: that is, that although they may not have a divine right to skin the people, yet that beyond all cavil the people have a divine right to be skinned, and that the sixth section is a direct violation of that right. Now if the banks can stir up a storm of popular indignation against the convention for having trenched upon this divine right, the right to be cheated

and swindled and robbed, why they will laugh in their sleeves and feel secure of their prey. Certainly, for what is a right good for if it be not enjoyed, and they think the people will insist upon being skinned out of spite, just to show that they have a right to be skinned and that it is nobody's business but their own.

But says the *Star*, it "meddles with men's private and lawful business and will produce an entire change in the laws of trade." Had the editor known anything of the laws of trade of which he speaks so confidently, he would never maintain that to manufacture currency is or ought to be a lawful private business. Indeed, he expresses some doubt whether skinning people is legitimately a lawful private business. But how are people to be swindled by bank paper if there are no hands to circulate it? If it be wrong to manufacture paper money, it is so because its circulation is injurious to the public. If this be denied, the wrong of making and issuing cannot be maintained. If it be admitted, the right to circulate cannot be maintained as a lawful private business; for a business cannot be morally right which, on the whole, works a public injury. While we maintain that banks are a public curse, it is sheer nonsense to pretend that bank paper is anything but a public curse, for it is not strictly banks but bank paper which does the mischief.

Let Democrats, therefore, understand distinctly that the question involved in the sixth section is essentially bank or no bank. Every Democrat in the convention, except such as declared themselves bank men, agreed that the sixth section was correct in principle, and this we believe will be the verdict of antibank Democrats throughout the state, and neither the bluster of the Whig press nor the howling of wolves in sheeps' clothing will make them backwater.

#### THE SIXTH SECTION

[January 12, 1847]

The editor of the *Western Star* in accordance with our suggestion has given us reasons Nos. 1 to 7, inclusive, against the sixth section of the bank article. That is he has given what he calls reasons; we call them objections, and with the exception of the two first no reason whatever is given in support of them. He asserts that the sixth section will have such and such effects and produce such and such results, but the why and the how are not stated; and should we meet these assertions with a flat denial, our logic would be just as good as his, and in some instances a little better, for some of the objections are of a whimsical character. But unfair as it is in

debate to throw the burden of proof upon the negative, we will proceed to "answer logically or crawfish" such of the objections of our neighbor as admit of a negative mode of reasoning.

#### OBJECTION NO. 1

That it is our right—our natural and moral right—to take what we please, to work for such pay or such articles as we want; and it follows that others have as good a right as we. And to deprive us of such right is nothing more nor less than an act of usurpation on the part of the law-making power.

That is to say: It is our natural and moral right to circulate paper money. The *Star* says it is naturally and morally right. We say it is naturally and morally wrong, and we presume the editor will agree with us that the acts of making and issuing paper money are of the same moral quality as circulating it, differing, perhaps, in intensity.

Before proceeding further we wish to obtain the assent of our opponent to a few propositions which can be regarded as little short of self-evident.

First. Have not the people of the United States lost immense sums of money by the failure of banks? It has been officially ascertained by the United States Treasury Department by means of reliable data that the people of the United States have lost no less than eight hundred millions of dollars by broken and fraudulent banks.

Second. Could these immense losses have fallen upon the people, if paper money had never been permitted to circulate?

Third. Do not sudden and extensive fluctuations in the nominal quantity of currency in circulation produce corresponding fluctuations in the nominal price of commodities, by which the sagacious are made rich at the expense of the simple? No argument we apprehend is necessary to establish this point. It is repeated before our eyes every year upon a moderate scale and periodically upon a most stupendous one, as in 1819, 1825, and 1837.

Fourth. Could these fluctuations and the distress and ruin attending them ever take place to any serious extent if paper money were not permitted to circulate? Evidently not, for the reason that the quantity of gold and silver in existence cannot be suddenly augmented or diminished to any serious extent; if they could they would be lacking in one of the most essential qualifications to serve as currency. But paper money has this insuperable disqualification—the nominal quantity may be and often is increased and diminished within a short period to such an extent that it is impossible to



form an estimate which will be sure to come within a hundred per cent as to the value which will be expressed by \$100, three or five years hence.

If the *Star* is not prepared to yield assent, in the main, to the foregoing propositions, we must decline reasoning with him upon the subject until he has taken his first lessons in political economy. If that assent be yielded, we are prepared to submit for the consideration of our neighbor another inquiry.

Can any man have a "natural and moral right" to countenance, aid, and abet a system which is fraught with these enormous evils? Can he have a right to help cheat himself and his countrymen out of eight or ten millions of dollars a year? Can he have a right to pass round a currency which is destitute of any value that may not at any moment depart from it, fluctuating in quantity and producing like fluctuations in the market at the will of those who make and issue it, and for their benefit?

No, it cannot be; the currency as we have often remarked is a public medium of exchange and is in an important sense public property, and every man is interested in the whole of it. Permanence of value and steadiness of quantity are conditions of the currency as really essential to the public welfare as is the purity of the air we breathe. These conditions attach more perfectly to the precious metals than to any other known substances which are in other respects adapted to the purposes of currency. By the circulation of paper money, the currency is deprived of these essential attributes, and a public and flagrant wrong is committed.

For these reasons it is not only the right but the duty of the government to prescribe the material which shall constitute the currency and to prohibit the use of any other.

#### THE SIXTH SECTION

[January 26, 1847]

#### OBJECTION NO. 2

That a law like the sixth section will be violated by common consent, and would become a dead letter, and would consequently establish a dangerous precedent.—*Western Star*.

We agree with the *Star* that a law which cannot be enforced is worse than none—its tendency being to weaken the authority of all law; and we admit, further, that the alleged probability of its practical nullity is the most plausible objection which, to our knowledge, has been urged against the sixth section of the bank article.

Its correctness as a principle none but out and out bank men can for a moment question.

But is the assumption that this law "will be violated by common consent" a warrantable one? In support of the assumption the *Star* refers us to the attempts which have been made in New York and Pennsylvania to suppress the circulation of notes below \$5. But the circumstances attending those efforts were widely different from those in which we are placed.

First. At that time there was nothing like a general sentiment existing in those communities against banks or bank paper but on the contrary the delusive impression that both were essential to the public welfare had full and undisputed possession of the public mind. With us it is far otherwise.

Second. They had a bank and a score of bank directors at every four corners, with thumbscrews ready for those who should presume to think for themselves and speak their minds; but from this corrupting and domineering influence we are as yet comparatively free.

Third. We must correct the *Star* in regard to the laws alluded to being entirely disregarded. In New York the law was very generally observed for about two years (notwithstanding the adverse circumstances to which we have alluded) until the banks suspended specie payment and instead of redeeming their notes commenced gathering into their vaults the little coin which their excessive issues had not yet driven from the country. The banks being indulged in this nefarious policy, the people of the state soon became reduced to the greatest distress for want of the lower denominations of currency.

The banks took advantage of that necessity which knows no law, and which they themselves had produced, to force their small bills upon the community in defiance of law and against the free choice of the people.

We are informed that in Pennsylvania the law prohibiting the circulation of small bills is still in force and very generally sustained. Such is the sum of the evidence drawn from the experience of other states that the sixth section of the bank article "will be violated by common consent."

The *Star* has adduced no direct evidence of the correctness of his assertion. Does any such evidence exist? Will this section be violated because the people prefer paper money to coin? We presume our neighbor will pretend to no such thing; if he does, we would suggest that he take a handful of small bank notes and try to exchange them, dollar for dollar, for specie and see how he

will succeed. Let any man try this experiment and he will very soon be satisfied, if he was not before, that people almost universally prefer coin to paper. Even the most inveterate bankite, when he has both paper and coin on hand, will shove off the paper first. Ask a merchant to change a bill for you, and he will tell you he cannot give you the specie for it—meaning always that he will not. In fact the universal preference for specie over paper is too notorious to be denied.

While this uniform preference for specie holds possession of the public mind, the law in question cannot be “violated by common consent.” If violated at all it will be by some common necessity overbalancing the common preference. Does any such necessity exist in our case? That a necessity of some sort does exist cannot be denied, for it is a notorious fact that paper money does circulate in spite of an almost uniform preference for coin. The reason is this: Money, whatever may be the material in actual use for the time being, is that which every man wants when he has a debt due or an article to sell, for the reason that every other man under the same circumstances wants the same thing. This begets a universal eagerness for money, and this eagerness renders it extremely difficult for any individual to refuse anything which at the time is tolerated as money. When the inferior kind is offered in payment of a debt or an article of trade, it is received not because the individual prefers it to coin but because his necessities induce him to risk the consequences rather than let slip the present opportunity of collecting his debt or selling his commodity.

This it will be perceived is but an individual necessity, founded in the nature of currency itself. The necessity is not an absolute one, it is true; but still it is such a necessity as in his individual capacity the citizen cannot easily overcome. And here we will remark by the way that although in our opinion great criminality attaches to the circulation of paper money, the crime is rather collective than individual in its nature. The great individual criminality attaches to those who make it and set it in motion; for in the absence of it the coin is offered and this individual necessity for taking paper is of course not felt.

But we assert that there is no public necessity which will compel the violation of this law; by which we mean that neither the natural laws which regulate currency nor the nature of the material selected by the common consent of mankind and prescribed by our federal constitution imposes any necessity for the circulation of small notes upon communities in their collective capacity—that they may rid



themselves of it without suffering the slightest inconvenience when the change is effected. Political economists all agree that paper money adds nothing to the total value of the currency and cannot make money more plenty than it would otherwise be. The plea of convenience in transmitting small amounts is too insignificant to be entitled to serious notice; and these two considerations comprise the sum total of the supposed public necessity for violating the law in question.

The individual necessity, as we have shown, exists only because the circulation is collectively tolerated—not because it is either individually or collectively preferred. The object and tendency of the sixth section is to give firmness and efficiency to the existing disinclination to receive paper money, by embodying the public sentiment against it, and giving it the force and authority of constitutional law. The object is not to counteract a prevailing preference for paper money, but to strengthen and enforce the almost universal preference for specie; and to say that such a law will be violated by common consent is an assumption which does violence to the ruling law of human nature.

#### REASONS FOR SUPPORTING THE CONSTITUTION

[February 16, 1847]

We would respectfully ask thinking men of all parties who may feel disposed to oppose the constitution to weigh well the following reasons in favor of its adoption:

First. It contains about one hundred and fifty sections which, though once the subject of debate and dispute, are now agreed upon by all parties to be the best and most perfect of any other known constitution.

Second. That there are not over half a dozen sections in all to which exception is taken, and but two to which much objection is urged.

Third. That the wisest and best meaning men both here and elsewhere differ in opinion in regard to these provisions; and their incorporation into the constitution was the result of concession and compromise.

Fourth. That, should the constitution be defeated, the same differences of opinion will exist as heretofore, and we have no guaranty that a new convention would not incorporate precisely the same features into the fundamental law.

Fifth. That among a people like those of Wisconsin, composed of men from every state in the Union, it is in the highest degree

absurd to suppose that a constitution can ever be framed that will harmonize the views of all classes.

Sixth. That should the provisions to which objection is raised be found not to work well in practice, the constitution itself furnishes an expeditious and proper remedy.

Seventh. That territorial scrip is now depreciated twenty per cent in consequence of the cost of the late convention (to wit: \$35,000) and with our limited means the cost of another would ruin our credit both at home and abroad.

Eighth. That to reject the constitution is to postpone the time of receiving the bounty of 500,000 acres of land from the general government.

Ninth. That it is to postpone the improvement of the Fox and Wisconsin rivers, along which alternate sections are to be given as soon as Wisconsin becomes a state.

Tenth. That 160,000 people in the territory are now mere dependents upon the general government, and have no voice in framing its laws, and can expect to receive no special favors at its hands.

Eleventh. That the dignity of freemen and a just appreciation of the enlightened progression of the age demands that Wisconsin should break from the apron strings of her parent and stand erect among the family of American sovereignties, the capstone in the Republic of thirty states.

Twelfth. That sound reason and common sense dictate that, where a whole people agree upon one hundred and fifty sections in their constitution and differ only upon five or six, it is their privilege and their duty to sustain it on the ground of union, harmony, and concession.

Thirteenth. That opposition is made more to the follies of some members of the convention than to the work of their hands; whereas the constitution itself is what the people are to decide upon and not the personal acts of its authors.

#### MEETING OF THE DEMOCRATIC MEMBERS OF THE LEGISLATURE

[February 16, 1847]

At an adjourned meeting of the Democratic members of the legislature, held at the capitol on Friday evening, January 22, 1847, Mason C. Darling being in the chair, and William Singer secretary, on motion of Marshall M. Strong a committee of seven was appointed to draft resolutions expressive of the sense of the meeting, and to report the same at a future meeting. The chairman appointed as such committee Marshall M. Strong, John E. Holmes,

B. F. Manahan, Andrew Palmer, Henry Clark, H. C. Hobart, and Timothy Burns. On motion the meeting adjourned to meet again at the same place on Saturday evening, the thirtieth day of January, 1847.

At the time and place last aforesaid the said meeting again assembled, and Mr. John E. Holmes, as chairman of said committee, reported the following resolutions, to wit: \* \* \*<sup>16</sup>

“Resolved, That we are entirely opposed to all moneyed monopolies and privileges of every description whatever, established and protected by exclusive legislation, to all unequal taxation, and believe that government should be so administered that each citizen shall share equally with every other its burdens and its benefits.

“Resolved, That we are opposed to conferring upon the future state of Wisconsin the power to contract any debt for the purposes of internal improvement, believing that it is the object of a state government not to transport freight or passengers, but to make and administer equal and just laws.

“Resolved, That, inasmuch as the success of Democratic principles and the perpetuity of freedom depend entirely upon the intelligence and virtue of the people, it is therefore the duty of every government to provide that every child in the state shall have the means within reach of obtaining a good moral and intellectual education.

“Resolved, That in the present important crisis of our territorial affairs we deem it the duty of every Democrat to use concession and make all reasonable exertions to promote union and harmony, and that we do not recognize the principle that the adoption or rejection of the constitution now submitted to the people—and the whole people—is a party question.

“Resolved, That the proceedings of this convention be signed by the chairman and secretary, and be published in the *Wisconsin Argus* and the *Wisconsin Democrat*, and that the Democratic papers of the territory be requested to copy the same.”

After some discussion on the above resolutions, the meeting adjourned till Saturday, the sixth day of February, to meet at the same hour and place.

At the time and place last aforesaid, the meeting having again assembled; the above resolutions were adopted, and Mr. Singer being absent, Jno. T. Haight was chosen secretary pro tem.

MASON C. DARLING, Chairman  
JNO. T. HAIGHT, Secretary pro tem

MADISON, February 6, 1847

<sup>16</sup> We omit to print a number of resolutions which deal with national issues rather than with questions local to Wisconsin.



## THE RESOLUTIONS

[February 16, 1847]

In today's paper will be found a series of the resolutions adopted in a meeting of the Democratic members of the late legislature. We think they will meet with the approbation of all true Democrats, as they sustain fully the leading measures of the Democratic party of the Union.

The resolution relative to the constitution we believe did not pass unanimously, and probably will not meet with universal approbation. For our own part we are well pleased with its mild and conciliatory character, and especially that it discountenances the idea of making the adoption or rejection of the constitution a party question. This we believe to be the true ground for both the advocates and opponents of the constitution and especially for the former.

The following are among the reasons why we think the constitution should be allowed to stand or fall upon its own merits, rather than upon party strength:

First. Because the fundamental law should be the free, unbiased, and untrammelled choice of a majority, and as large a majority as possible of the whole people, in order that it may be regarded with that degree of veneration which will secure its supremacy.

Second. Because the constitution embraces many principles which all parties hold in common and many provisions which are mere matters of expediency and have no imaginable relation to party politics or political principles of any kind. Where are the two men who would not agree that the government should consist of three departments, and that the powers and duties of these departments should as far as practicable be separate and distinct from each other, or who would disagree as to the propriety of having the legislature consist of the two houses, or having a supreme and inferior courts, or in respect to any one section in the bill of rights?

On the other hand what possible connection can there be between party politics and the salary of a governor or judge, the exact terms for which they should be chosen, the number of judicial districts which shall be established, the number of members which shall constitute the senate and house of representatives, or the per diem which shall be allowed them? And yet all these are matters of interest to the people, and in respect to which they have a right, belong to what party they may, to exercise their own judgment.

Third. Because party organization and party strength are only intended to bear upon particular principles in respect to which parties disagree, and not upon those, and principles which are universally admitted, and questions of mere expediency indiscriminately. This, as in the case of our constitution, would be a perversion of party organization and a waste of party strength.

Fourth. Because the adoption or rejection of a constitution as a party measure was never attempted in any of the new states, and is inconsistent with the universal practice of submitting the instrument to a popular vote. In our case, a convention was elected on party grounds, and the Democratic party was largely in the majority. Now if the same majority is bound to adopt the instrument, whether they like it on the whole or not, submitting it to a vote of the people at all is a mere farce, or, at best, a mere formality, and the action of the convention, as in the case of a legislature, might just as well have been final upon the question. In either case we are bound by the action of the convention and have nothing further to say about it. It amounts, in fact, to repudiating the Democratic practice of submitting the fundamental law of the state to a vote of the people before it is allowed to have any force or effect.

Fifth. Because we believe that many of the warmest supporters of the constitution are unwilling to endorse and would be unwilling to see their party endorse every principle contained [in] it. Several important principles in the constitution are acknowledged by their most sanguine friends to be mere experiments, and although it may be lawful and right for parties to experiment, yet they should do so with caution and not be too confident until the success of an experiment has become at least probable.

As Democrats and as advocates of the constitution we would not like to see it made a party measure.

First. Because there are many Democrats who would vote for the constitution in view of its aggregate qualities and all the circumstances of the case, who would not vote for it as a party document throughout.

Second. Because, if it should be attempted to force Democrats into its support by party discipline, we might have more cases of discipline on hand than we could attend to with anything like efficiency or profit.

Third. Because we believe there are many Whigs who are so far pleased with the constitution that they would vote for it upon its

merits, when, if made a party question, they would feel constrained to vote against it from party considerations.

Fourth. Because, leaving every man free and untrammelled to weigh its merits and strike the balance between the good and the bad, and in view of all the circumstances of the present and the probabilities of the future, to deposit a blue ticket or a white one, as his own sober judgment may dictate, is the only means by which harmony and good feeling can be preserved among Democrats and the party be enabled, in case the constitution should be defeated, to rally harmoniously and try to make a better one.

While, therefore, we are desirous to see the constitution adopted and intend to urge our fellow citizens without respect to party to vote for it as the best thing that can be done, taking the instrument as it is, and our circumstances as they are, we shall endeavor to conform to the spirit of the resolution alluded to, and not hurl anathemas at those, who in the discharge of the high responsibilities of freemen may think and act differently from ourselves.

#### WHAT IS THE LEADING OBJECTION TO THE CONSTITUTION?

[March 9, 1847]

That there are different objections raised and honestly entertained by different individuals and classes of voters, there can be no doubt; nor are we disposed to deny that some of these objections are well founded so far as they relate to isolated provisions. But is there not some one provision which while it is approved by a majority is exceedingly obnoxious to a minority, and to defeat which every other objection, however trifling, is brought up and magnified beyond measure and brought to bear, indirectly, upon it?

We believe this is the true state of the constitutional war so far as a large majority of its opposers are concerned and that this one thing is the article on banks and banking. Let us not be misunderstood. We do not say that all who oppose the constitution are in favor of banks, but we sincerely believe that the main opposition is covertly directed against this article—covertly—because bank men well know that open opposition to the bank article would strengthen rather than weaken the constitution. They know that they could no more defeat the constitution on the ground of the bank article than they could take Gibraltar with a pocket pistol. They know that if they are to undermine the constitution, they must dig in softer spots than this, and that there are softer spots “is a muckle pity.”



We know there were men in the convention who opposed the bank article with their utmost zeal—who scouted the idea of a specie currency—who insisted that we must have banks and predicted the overthrow of the constitution and the defeat of the Democratic party if it were attempted to exclude them, until the article on exemption and the rights of married women passed, and that was the last we heard from them about the bank article. Thenceforward they would oppose the constitution on account of those provisions.

For a long time the opposition press belabored the bank article and grounded opposition to the constitution upon its provisions. But latterly they seem purposely to have forgotten this objection, and bent all their energies against the article on the rights of married women and exemption. Well, these provisions are bad enough, we grant, but they are not the hundredth part so much to be dreaded as a banking system. A very slight experiment with these provisions will consign them to the shades, and the mischiefs they produced will soon be obliterated. But let a banking system be once fastened upon us and we may strive in vain to free ourselves from it.

Sift the objections of opponents of the constitution, and three times out of four they will all slip through but this: "We must have banks." We believe the sentiment of a large majority of the people of Wisconsin is "We must not have banks." But let the constitution be defeated, and this single objection, "We must have banks," which is now so carefully kept in the background, will be placed first and foremost by bank men, as the objection which has been sustained by a popular vote.

We hope, therefore, that the friends of a constitutional currency who may have other and serious objections to the constitution will weigh well the risk they will run by allowing their objections to what is wrong to determine their vote against what is right. What farmer in order to get rid of a few mulleins would incur the imminent hazard of seeding his whole farm with Canada thistles?

#### TO THE CANDID AND REFLECTING

[March 9, 1847]

In the present crisis of affairs in Wisconsin we think all men of candor will admit that sound policy requires that the Democratic party should stand upon an impregnable basis. That basis, in our view, consists in a rigid adherence to our chosen principles. These are embodied in the creed of Jefferson, Madison, and a host of

Revolutionary patriots. They are alike adapted to the condition of the party in success as well as defeat, at all times and in all places. For fifty years they have resisted all the assaults of our enemies, and their success has elevated the Republic to its present power and greatness.

Around these every true Democrat can rally without a division of sentiment; and it is only when efforts are made by the ambitious and designing to engraft new sentiments or make new issues that our ranks are torn and distracted. It becomes then a matter of importance to settle what are questions of principle and what of expediency. It is from a failure to make this distinction that leads one or two professedly Democratic presses in the territory to take precisely the same ground with the Whigs—that our principles may be altered, amended, and varied by every new convention or embodiment which may chance to make innovations. We do not so understand it. We have not so learned democracy. We repudiate the position. If one man or body of men can declare that this or that new measure is a part of our creed, another with the same right may declare that it is not, and thus, like the Whig party, we should be continually oscillating from side to side, chasing shadows and trimming our sails to catch every varying breath of public opinion. We prefer the settled maxims of our fathers as our guide and cannot be driven from their support by the obloquy and insults which certain shortsighted persons may heap upon us.

The question of the adoption or rejection of the constitution will illustrate our position. Is it a question of principle or expediency? A few declare it one of principle only, and they are loud in denouncing every Democrat who does not agree with them. We regret this exceedingly. Whatever our opinions may once have been, it seems clear to us that sound policy requires that the question should be made one of policy and expediency only. The constitution we regard as eminently meritorious and as deserving the cordial support of the people. Many of our best Democrats—old pillars in the edifice—do not agree with us. They claim and they have a right to differ with us in opinion. What right have we or any Democratic editor to denounce these persons as “renegades,” “demagogues,” and “asses.” What right to impugn their motives or their honesty? We appeal to the good sense of the reader—is this a proper course to secure converts to the constitution? Is this the way to secure harmony and good feeling among old friends? We are pained to see so proscriptive and unnatural a course.

Deal meekly with the hopes that guide  
The lowest brother straying from thy side;  
If right, they bid thee tremble for thine own;  
If wrong, the verdict is to God alone!

A great effort has been and is being made to place the *Argus* in a false position on the constitution. The readers of this paper know that we have constantly urged its adoption. We do now, and shall continue to urge it until the election. Yet for daring to doubt its absolute perfection, for refusing to adopt it as a principle of the Democratic creed, and for refraining from insulting and deriding those who do not approve of it, we are set down as opposers! We appeal to no better proof than our acts to settle this question.

We cannot close this article without strongly appealing to the Democracy of the territory to permit no false issues to blind them, to cultivate a spirit of harmony and concession, and if they cannot agree upon the constitution to disagree like friends and brothers—and especially to rally around their chosen principles and show to the world that though they may differ upon questions of mere expediency yet they are firm as the seated hills in support of Democratic republicanism. We urge upon them to avoid recrimination and ill feeling, and to take an elevated view of things and not magnify slight defects in the constitution into insurmountable objections, but to take the whole document as it stands and give it a careful and candid examination and if possible vote for it.

#### THE GREEN BAY ADVOCATE ANSWERED

[March 9, 1847]

The *Democrat* publishes at length an article purporting to be written by the editor of the *Green Bay Advocate*, denouncing the last legislature and the editors of the *Argus* for entertaining a different opinion from himself in regard to the proper position to be taken in supporting the constitution. The editor can scarce contain himself at the idea that a person making the least pretensions to intelligence or honesty could for a moment suffer his reputation or paper to stand upon his own degraded level. The spectacle, we confess, is most humiliating. It is an anomaly in the politics of Wisconsin—and goes far to prove the suspicion commonly entertained here to be correct, that the article in question was written to order by the *Democrat* clique, and that the editor of the *Advocate* merely permitted it to appear in his columns. This suspicion amounts nearly to certainty when we examine its peculiar phraseology. It is almost as vapid, shallow, and flat as the wishy-washy dilutions



of the *Democrat's* editorial columns generally. Egotism, conceit, and a great surplus of large words, and an utter absence of ideas are its most prominent characteristics, except the falsehood of its statements. It evidently originated amid the fumes of a doggery, as such silly twaddle was never uttered in sober earnest; and wherever the strain is elevated above the bubbling scum of the stew-house it is evidently in places where the editor of the *Advocate* brushed it up a little to save it from the suspicion of utter idiocy. It is barely possible that to save appearances he will claim it as his own. We doubt it, though. We have always regarded him as a man of too much good sense to assail a brother for a difference of opinion, to misrepresent his position, and especially to ally himself with that scum of moral, social, and political depravity which, disgorged by Federalism onto our ranks in the hour of success, is seeking out every means to destroy the party. If we have ever intimated that he was the author, we retract it, and shall hereafter give the credit of the production where it belongs. We feel certain that it is doing him great injustice to suppose that he could have given birth to such a mess of namby-pamby nonsense.

#### ANTICONSTITUTION RALLY AT MILWAUKEE

[March 9, 1847]

MILWAUKEE, March 6, 1847

MESSRS. EDITORS: The constitution being all in all at this time, I presume you feel an interest in knowing how the battle progresses here. The great anticonstitutional meeting came off on Thursday evening, pursuant to the call signed by over five hundred citizens of Milwaukee, all Democrats, and all voters. Both friends and foes were astonished at the immense turnout. There were full three times as many as at the meeting of the friends of the constitution a short time since. But about one-third could get into the courthouse; the rest organized on the outside and were addressed by Messrs. H. N. Wells, Holliday, and Brisbin, so that there were in fact two meetings. Of the proceedings on the outside I can say but little, having been within and unable to get out on account of the press. Mr. Crocker was appointed chairman on the inside, and Mr. Kilbourn first addressed them. His remarks were candid, argumentative, and manly, and were listened to with much attention. At the conclusion he introduced to the meeting Marshall M. Strong, who was greeted with overwhelming cheers for several minutes. Mr. Strong spoke about half an hour in his usual calm, clear, and

convincing manner. The style of his oratory is peculiar. Though there is nothing striking about it, yet no man can listen to him without feeling his soul strangely and powerfully stirred up—without feeling that a large and noble soul is communing with his soul at unwonted depths. How strange it seems and yet how welcome in these days of shallow quackery and raving demagogism to listen to a true man! I know not but it may be deemed heretical for me, who have always been a Democrat, to speak an approving word of a veteran Democrat, and a “ripe and good one,” but I cannot forbear. All that I have seen of Strong has conspired to give me an exalted opinion of the man. He it was that first dared to “appeal from Alexander drunk to Alexander sober”; he first by his manly stand rolled back the swelling flood of mad fanaticism that threatened to engulf us, and to him chiefly will belong the honor of saving “our beloved Wisconsin” from being converted into a Fourier phalanx—a playground for lunatics and idiots. “The people will not sustain him,” said every shortsighted popularity seeker, who thought nothing but humbuggery could succeed. But Mr. Strong knew the people better. He knew that they are not the fools which shallow demagogues suppose, and that they will always sustain the man who dares boldly to stand up for right and reason. His course has vindicated the principles of Democracy and the intelligence of the people and saved Wisconsin from disgrace and misery. The few base beings who have so sedulously set themselves to slander and belie him will pass away and be forgotten, while “tongues-to-be his being will rehearse” with reverence and gratitude.

But I have wandered too far. After Mr. Strong had finished, Mr. Holliday, chairman of committee, introduced a manifesto and resolutions, which were adopted with much enthusiasm, after which he made a very happy address, and the meeting adjourned. The utmost harmony prevailed throughout, and everything went off in a prudent and orderly manner. The people acted as if they were deeply interested and in earnest. I think the election will show the same.

Yours,

JOHN BARLEYCORN

## THE SIXTH SECTION

[March 9, 1847]

## OBJECTION NO. 3

That the business of the country could not be successfully carried on without small bills for the purpose of remitting small sums at a distance.—*Western Star*.

The above is a weighty objection, truly! We have only to answer that gold may be remitted by mail for about one per cent, which on the aggregate of the sums remitted below twenty dollars would not amount annually to a tith of what is lost monthly by the failure of banks and the fluctuations produced by paper money. A half eagle may be remitted by mail without adding anything to the postage on the letter containing it, so that a half eagle is just as convenient for purposes of remittance as a five dollar bill.

If the *Star* is disposed to ask how we could remit sums below a quarter eagle, we will ask him how sums below one dollar are now remitted? If the editor held himself bound to admit anything he would doubtless admit that the convenience of remittance would not justify the circulation of six-penny notes. With our present coinage of gold, we only want one dollar bills for the purpose of remittance to fill the vacuum between the present lowest denomination of paper and the lowest denomination of gold coin. There is now no urgent necessity for two, three, five, and ten dollar bills for purposes of remittance, for an eagle can be sent by mail to any part of the United States for one per cent, and the lower denominations of gold without any additional postage upon the letter.

Now the question is, Does this trifling inconvenience compensate for the average loss of millions annually by the paper system? We do not believe there is one man in a hundred whose own experience will not dictate a negative answer.

## OBJECTION NO. 4

That if all paper money or money of a mailable character were driven out of circulation, under twenty dollars, that, in order to get bills of that character for the purpose of remitting large sums, would subject us to a shave by the brokers, and large notes would command a premium in gold and silver.

Large notes would command a premium in gold and silver! Well, that would be such a thing as was never before heard of. Paper money would become so scarce as to command a premium in gold and silver! Get shaved on gold and silver in exchanging it for bank bills! That would be bad news, especially for a "hard."



But we never get shaved on our paper, do we? We only get shaved from one to three per cent when we want to get land office money for "Red Dog"—can't get it for "Buckeye" nohow. The people of the United States have only lost eight hundred millions by broken banks, and twice as much more by the expansions and contractions which they have produced; but all this is as nothing compared with getting twenty dollar bills above par!

But seriously, "large sums" are seldom remitted in bank notes at all, but in drafts or bills of exchange, and when bills are wanted for this purpose the premium in gold can never exceed the cost of remitting gold, which everybody knows is but from ten to twenty cents an ounce, averaging fifteen cents, or one per cent on the value, and this is about the lowest rate of exchange charged by brokers.

So much for No. 4.

#### OBJECTION NO. 5

That it would subject us to great inconvenience in our intercourse with our sister states where such currency is authorized by law.

As the editor has adduced not so much as the shadow of a reason why it will subject us to this inconvenience, and as we cannot imagine one, we shall not attempt to disprove the assertion.

#### OBJECTION NO. 6

That it would greatly retard emigration from other states by compelling emigrants either to raise the specie or bring an unlawful currency.

No. 6 ought to have been accompanied with "hot blocks." If the bills brought here by emigrants will not bring the specie at home, we certainly do not want them here. If this is not a logical answer to the above objection, we do not see but we shall have to crawlfish.

No. 7 will be attended to by itself.

### THE SIXTH SECTION

[March 16, 1847]

#### OBJECTION NO. 7

That such a principle, if carried out in all the states, would produce great inequality in the rewards of labor.

First. This will be evident when we take into consideration that it would reduce the value of labor and the products of American industry to the specie standard, while the pay of government officers is fixed by law, with very little hope that they will voluntarily reduce their own pay to the same standard.

Second. That the laboring men would under such a state of things have to labor much longer to pay for an article of foreign goods that was produced where such an arrangement would not produce the effort to lower the prices. For instance, a pound of tea that costs a dollar may now be paid for by a day's work of a man whose labor commands a dollar per day. Now if by reducing labor to the specie standard it should reduce his wages to fifty cents, he would have to labor two days for the same property that was bought for one, and the tea, being a foreign article, would not be affected in price because it would have to conform to its cost in a distant land.—*Western Star*.

The above objection and the reasons assigned in its support involve to as great an extent as could well be in the same compass the whole science of political economy. If the above reasons are sound and valid, then are the standard works on political science utterly fallacious, and all our colleges and universities are inculcating as scientific truth the vain imaginings of disordered minds.

The *Star* is perfectly in order in supposing the principle contained in the sixth section extended to all the states, and we would not object if he were to extend it as far as currency is known, for if it be the correct policy for one state, it undoubtedly is for every other state and country, and we are ready to defend the principle upon this broad ground.

The *Star* evidently supposes that the principle if carried out in all the states would reduce the total nominal quantity of the currency of the country just the amount of the small bills now in circulation and proposed to be excluded. This is a great mistake, as we shall hereafter show; but for the present we will give the *Star* and the multitudes who entertain the same notion the advantage of the assumption and proceed to show that even upon the hypothesis that it would reduce the total nominal quantity of the currency one-half it would not produce the supposed effect upon the rewards of labor.

In his first consideration, while the *Star* has something approaching a correct idea, he reasons in the wrong direction. Reducing the currency one-half would not "reduce the value of labor and the products of American industry" at all. It would increase the value of the same quantity of money just one hundred per cent, and that is all there is about it. The relative value of all other commodities would be the same as before. The only consideration in respect to price, which is of the least consequence, is the quantity of one product which may be obtained for another, money out of the question. This is price in its practical sense. Money is never the ultimate object, but the mere medium of exchange through which an ultimate object is obtained; and in exchanging a day's labor for a

bushel of wheat or a bushel of wheat for a yard of cloth it is of no consequence whether the medium employed be an ounce or only half an ounce of silver. The *Star* seems to admit the principle that it would make no difference in the exchange of the labor and products of the nation within our own limits, and only cites fixed salaries as instances of inequality, and assumes that they could never be modified. Retaining the hypothesis, we admit that a fixed salary would become twice as much as before, but we utterly deny the assumption that it could never be modified; and if it could not it would be but one instance in a thousand and not for a moment to be compared with the losses attending the banking system.

But the great inequality in the rewards of labor is to be developed by the operations of our foreign commerce. Upon this point we might answer the *Star* by just reminding him that his party proposes not to have any foreign commerce; and if their policy is to be carried out, there will be no danger from this source. However, as Democrats advocate a different policy, we feel bound to meet the objection or crawfish.

Political economy teaches us that as a general rule one nation can buy of another only with its own products. If the *Star* does not recognize this truth, we must beg of him, as it is an easy one, to take it as his first lesson in political economy; and as Whig politicians are accustomed to treat this and similar truths as mere theories unsupported by reason and at war with facts, we will refer our neighbor to a fact or two which will, perhaps, render the lesson still more easy.

By referring to the report of the register of the treasury of the United States we find that in the year 1844-45 the total of our imports was \$117,254,564, and our total exports \$109,474,875. Of the imports, \$4,070,242 and of the exports \$7,761,449 was in specie and bullion, making an excess of specie exported over that imported of \$3,691,207. Here then we have bought in round numbers \$113,000,000 worth of goods, on which we have paid \$3,500,000 in specie or about three per cent; and we may be sure we should not have paid that much, if specie had not been worth a little more in foreign countries than it was at home.

The above authority demonstrates the fact that we buy of foreign countries with our own products and not with specie. Upon the absurd hypothesis, then, that specie could by any possibility be worth twice as much at home as it is in foreign countries, how could that affect the quantity of labor requisite to procure a foreign



commodity? The same labor would procure the same quantity of wheat as before, and the same quantity of wheat would procure in the foreign market the same quantity of a foreign product as before, and if it would in the foreign market it would in the home market, for the latter would be regulated by the former no less than it is now. The merchant only wants for his foreign goods that which will replace them, plus his profits. The same quantity of home products will do it as before, and it matters not whether he receives them direct for his goods or buys them for half the former quantity of money. There it is, friend Utter—straight as a shingle. But to make it still more plain—a bushel of wheat is now worth—say one ounce of silver—or as we would prefer to say, an ounce of silver is worth a bushel of wheat. A merchant gives a farmer a yard of cloth for a bushel of wheat, or suppose he sells the yard of cloth for an ounce of silver and exchanges the silver for a bushel of wheat. He sends the wheat to England and gets a yard and a half of the same kind of cloth for it—take care now—don't suppose he will sell it for specie, for that will upset the assumption that specie is to be worth twice as much here as there—he sells it for a yard and a half of the same cloth, and by the time he gets it here it has come to pass that half an ounce of silver is worth a bushel of wheat. Now why cannot the merchant sell the yard of cloth for the bushel of wheat, or sell it for half an ounce of silver and exchange that for a bushel of wheat, and keep doing so just as long as he can buy a bushel of wheat for a yard of cloth and sell it for a yard and a half? Do you give it up?

But there is the pound of tea, you say—a man would certainly have to work two days instead of one for a pound of tea if the sixth section were adopted in all the states. How so? Why, we have to pay specie for our tea—can't get it without. Ah!—how is that? Our imports from China amounted in 1844-45 to over seven millions of dollars, over five and a half millions of which was in tea, and how much money do you think we sent them? We carried out \$158,860, squared up with the Celestials, and brought \$27,107 of our change back again, leaving \$131,753, or less than two per cent on our purchases! So much, neighbor, granting you the benefit of a false assumption. We propose next week to try and knock the sand from under your assumption.

## RIGHT OF FOREIGNERS TO HOLD AND TRANSMIT PROPERTY

[March 23, 1847]

One of the objections urged against the constitution at the anti-meeting at the capitol on Saturday a week [March 13] was founded upon the fifteenth section of the bill of rights, which is as follows:

“Foreigners who are or may hereafter become residents of this state shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens.”

As this objection was taken by a highly intelligent gentleman of foreign birth, who had himself been naturalized, and the sentiments he advanced seeming to be entertained to a considerable extent by naturalized citizens, we deem it worth while to endeavor to correct an erroneous impression which appears to prevail upon this point from the want of a clear understanding of the peculiar mechanism of our republican system.

The objectors seem to suppose that the above section places the unnaturalized foreigner in the possession of all the rights and privileges of native-born or naturalized citizens, without subjecting him to the same duties and responsibilities. But these persons do not bear in mind the broad distinction so ably drawn by Mr. Ryan in his speech in the convention between citizenship and denizenship.

A state, although an independent sovereignty in respect to its internal policy, possesses no distinctive national character and cannot claim any strictly national attribute. Citizenship is a relation sustained between the individual and the nation. Denizenship under our system is a relation sustained between the individual and the state. All the rights of denizenship usually attach to citizenship; but all the rights of citizenship never attach to denizenship; for, if they did, all distinction between the two conditions would be destroyed. A state may make a denizen by conferring upon him such rights common to citizenship as lie within its jurisdiction and do not interfere with the rights of other states. Now for the application.

A citizen by virtue of his citizenship possesses the right to hold and transmit real estate in any state or territory of the Union. The foreigner possesses this right only within the state which confers it, and when he leaves the state he leaves the right, and whether he is to possess it in the state to which he removes must depend entirely upon the laws of that state.

But the distinctive feature of citizenship, over which an individual state has no control, consists in a mutual right of protection—the citizen is bound to protect his government, and his government is bound to protect him against all other powers. The allegiance of the citizen to the government and the duty of the government to protect him cannot be separated. The citizen, when he goes abroad upon the high seas or into foreign countries, goes with the assurance that the resources of the nation are pledged for his protection and the redress of any wrong he may suffer from the proudest nation in the world; and under the flag of his country, whether native or adopted, he feels safe.

The foreigner, although he may possess every possible right of denizenship in a particular state, yet he can claim no such right as this. When he leaves our shores we are done with him and he with us, and he must seek protection under the flag of the nation to which he owes allegiance.

But, says the objector, why not require of the foreigner an oath of allegiance to the United States before we confer upon him so important a right, even within our own state? We answer, because such an oath imposed by state authority would amount to precisely nothing at all. The state cannot contract with a foreigner for his allegiance to the United States any more than the United States can contract with a subject of Louis Philippe for his allegiance to Queen Victoria. A state is not a competent party because, as allegiance and a right to protection are inseparable, if a state could impose the obligation of allegiance upon the individual it could impose the obligation to protect him upon all the other states, when clearly the other states should have a voice in determining to whom and upon what terms they will extend their protection, and this right is mutually conceded by the federal constitution.

We have therefore no alternative but to extend the right as is provided in this section or leave the foreigner to acquire it under the tardy process of the naturalization laws. If we leave him to the operation of the naturalization laws, he may come among us with a dependent family, invest his all in a farm, and if he dies within four years and eleven months from the time of his arrival, his property escheats to the state, and his family are turned out of doors and made beggars in a land of strangers. Is this right? Does the conferring of this right involve such an imminent public danger as to justify the enormous wrong which may result from withholding it? Positively, we think not.



## THE ASSUMPTION

[March 23, 1847]

The *Western Star* in his seventh objection to the sixth section of the bank article assumes that the principle contained in it if carried out in all the states would reduce the nominal amount of the circulating medium of the country to the full amount of the bills excluded. We gave the *Star* the benefit of this assumption for the purpose of showing that even if true it could not produce the "inequality in the rewards of labor," of which he was dreaming. We shall now proceed to show that the assumption is wholly without foundation.

The *Star* not only admits but claims that reducing the nominal quantity of the currency of a country will increase the exchangeable value of what remains. He says it would reduce the price of labor and products; we say it would increase the price of money; but we both mean the same thing—that a less quantity of silver would procure the same quantity of labor or of anything else. So far the *Star* is right in respect to cause and effect, and this effect would be permanent if the cause could be permanent. He supposes the cause would be permanent, and here lies his error.

But we have no hope of convincing him of his error until we have given him another lesson in political economy, by which he may comprehend the fact that the effect of this cause would put in operation another cause which would arrest the first cause and of course destroy its effect, when both causes and their effects would cease by neutralizing each other.

Dr. Adam Smith, the great pioneer, and we may say, founder of the science of political economy, lays down the principle and sustains it unanswerably that the laws of trade will carry currency to where it is worth the most, and that the operation of these laws equalizes the value of money throughout the civilized world. This is his great argument in favor of banks—that the issuing of paper creates a redundancy of money where it is issued, and that redundancy makes it cheap, and that cheapness induces the exportation of the surplus to countries where it is worth more, and the nation receives its value in some other form, the kind of currency exported being always specie or bullion.

This law of trade and its effect on the currency of the world is fully recognized by Say and every other political economist of any

note from the time of Adam Smith to the present. Dr. Wayland, in his *Elements of Political Economy*, p. 259-60, presents the doctrine of Smith and his successors in a very clear and concise manner. He says:

Now by issuing paper money the whole amount of money is increased, and hence its price falls. But as every paper dollar is redeemable in silver, its value is still equal to that of a silver dollar. Hence, the whole amount of currency, silver and paper together, falls in price, so that money becomes cheap, and you can buy more abroad with a silver dollar than you can buy with a silver dollar at home. Now in this state of things if the paper and coin were equally valuable in foreign countries, either would be exported at pleasure. But inasmuch as only the metal is valuable abroad, this, exclusively, is sent out of the country in the purchase of other articles. And it will be sent out until the price of the circulating medium at home is reduced to its ordinary price in other countries.

We will here observe that raising the price of the currency in one country above its ordinary price in other countries produces in those other countries the precise state of things above described; and individuals in those countries who have money to sell will assuredly send it to that country where they can get the most for it, until the influx has reduced the price of currency in that country to its ordinary price in other countries, when the motive for sending it will cease to exist. This is a plain, simple law of trade, which it would seem every man might understand, for even a child when he has anything to sell will carry it to the place where he can get the most for it.

The application of the above principle to the subject in hand is very natural and easy. If by the extension of the principle contained in this section of our constitution to all the states the currency of the Union should be reduced one-half, the currency of other countries would undergo a comparative depreciation of one-half, and this would induce an immediate influx from all quarters until the equilibrium was restored; and then our currency would be reduced nominally just in the proportion that the excluded paper bore to the currency of the world, and the currency of other countries would be reduced just to the same extent as our own. If the currency of the United States be equal to one-tenth of the total currency of the world, it would reduce the nominal quantity one-half of one-tenth or five per cent here and all over the world; if it be one-fiftieth, which is more probable, it would reduce it one-half of one-fiftieth or one per cent here and throughout the world; but the total value would be the same as before.

Should the currency of the United States be suddenly reduced one-half by the operation of the sixth section principle or any

other, temporary distress would doubtless ensue, just as it has done repeatedly by the operation of our preposterous banking system. Our banks go on extending their issues from year to year and the metallic portions of the currency as constantly flow off to other countries, until the people suddenly find out that there is nothing but paper in circulation and they rush to the banks and demand specie. But the banks cannot pay; they have not the specie, and it is not to be found in the nation. Panic ensues; the banks all explode; their bills become worthless; and the country must do without currency until it can import it. As we import it the banks get the first use of it in buying up their notes, and then they are ready to play the game over again.

Now should every state in the Union adopt our sixth section tomorrow and enforce it to the letter, it could not produce the hundredth part of the distress which attends one general bank explosion. Its adoption by the single state of Wisconsin would reduce the currency about as much as a horse would lower the Fourth Lake by drinking out of it—the lake would be almost as full as ever, and the horse a good deal fuller. So under the operation of our bank article Wisconsin will have a good deal more specie than she would otherwise, and the rest of the world a trifle less.

#### THE ISSUE

[March 30, 1847]

Many of the friends and supporters of the constitution had for a long time been of the opinion that the opposition to that instrument was founded on the bank article exclusively and had that been omitted, there would have been but a meager show at a fight. That article was attacked with all the rancor of avarice, all the abuse of subsidized editors, letter writers, and hireling orators at its first introduction into the convention. Fearful at the first of declaring that this alone contained the germ of opposition, a feint was made by the enemy on the articles on the rights of married women, on exemption, on amendments, and on several others, and thereby many honest men and worthy Democrats have been induced to declare against the instrument. But as the day of election approaches, when they believe the deceived are too far pledged to retreat without dishonor, the mask is boldly thrown off, and the real issue is openly made. Bank or no bank is now submitted as the test on which the constitution is to be adopted or rejected. If any man has a doubt on this point, let him turn to any of the papers devoted to the cause of



the opposition and see the leading articles; examine the resolutions of the antimeetings, declaring that credit will be prostrated, money driven out of the state, and business droop and perish; let him ask himself what means the circulation of such flat productions as Thomas Richmond's "Address to the Farmers of Wisconsin" in pamphlet form, and then say if he does not see the issue made by the opponents. Bankers have everything to gain by a defeat of the constitution, and nothing to lose. Shorn of all power to establish banks in the state they cannot corrupt the legislative power, nor fatten upon the labor of the masses; hence this with them is a death struggle, and we may expect heaven and earth will be shaken, but they will triumph.

Electors of Wisconsin, be not deceived. Let the bankers triumph at this election, and their foot is on your neck forever. Deceive not yourselves with the vain hope because the yeomanry of Wisconsin have been an overmatch for the bank since 1838, that therefore you are safe. Remember that within that time two banks have crashed, and their bills been left worthless on your hands. The stings of that castigation have passed from the minds of many of the sufferers, except when opened afresh. And that more than one-half the voters on the constitution never felt the blows. Hence, though we have resisted thus far, it is no guaranty we shall longer resist. Peruse again the "fundamental principles of the Whigs of Dane County," read the editorials and correspondence of the *Madison Express* published in August last, and then compare them with the same *Madison Express* and the position the Whigs now occupy—opposition to the constitution because of the bank article—and then ask yourself if there is any certainty you will ever see another constitution containing a prohibiting clause. Flatter not yourselves; that article is safe. Democrats are divided or dividing on it, while Whigs are rallying as one man around that standard and hoping to profit by our momentary inability to act in concert to defeat the present constitution and to carry the next convention and have re-enacted in the state of Wisconsin the scenes of Ohio and Michigan, when wildcat banks sent ruin throughout the length and breadth of the state. All other objections compared with this sink into insignificance and melt into thin air. This addresses itself to the selfishness, the avarice, the cupidity of the rich, the high born, and they struggle for their very existence, for the continuance of their power.

Let Democrats who believe with Jefferson that "banking is a blot on all our constitutions," that "banks are worse than standing

armies," or who have subscribed to the creed of the Democratic convention for Wisconsin in 1842, and pledged himself [themselves] "to use his [their] best and constant exertions to terminate the system, and to resist all future attempts on the part of our legislative bodies to confer exclusive and extraordinary privileges on any company of men associated for the purpose of carrying on what is usually denominated the banking business," look at this issue in its true light, and pause at the consequence of endangering this great principle for which we have so long fought.

### THE REASON ASSIGNED

[March 30, 1847]

In answering the objections of the *Western Star* to the sixth section of the bank article we passed over No. 5, for want of any imaginable reason to support it. The *Star* goes back and makes the amendment thus:

No 5. "That it would subject us to great inconvenience in our intercourse with our sister states, where such currency is authorized by law."

Upon the above the *Argus* remarks: "As the editor has adduced not so much as the shadow of a reason why it will subject us to this inconvenience, and as we cannot imagine one, we shall not attempt to disprove the assertion."

Now for the special edification of the *Argus* we will give some reasons for this position, which the editor cannot discover. Our intercourse is mostly with the eastern states, and especially with the state of New York. In that state there were on the first of January, 1847, eighty banks with an aggregate amount of specie in their vaults of \$6,340,513, with a circulation in bills of \$16,033,125. This is no more than the law requires the banks to keep on hand for the redemption of their bills. Consequently if a grain dealer should wish to borrow money to buy wheat in Wisconsin, it would be impossible and highly improper for the banks to accommodate him with specie. He might obtain any quantity that he might need to circulate in the western country according to the usages of banks, but the specie must be retained for the redemption of these bills.

Well that is as good a reason as could be expected, but before we "crawlfish," let us examine it a little.

The banks of New York have no more specie on hand than the law requires them to keep for the redemption of their bills already in circulation, and hence "it would be impossible and highly improper for the banks to accommodate him (the wheat speculator) with specie." Now this is precisely the same thing as to say that the banks have already as many bills in circulation as the law allows them to issue upon the amount of specie on hand and that it would be impossible and highly improper for them to issue any more, for after they have issued all the bills which their specie

can redeem, whether they loan a part of their specie or issue more bills, the effect will be the same—they will have more bills in circulation than they can redeem. But, says the *Star*, although the banks will not lend the speculator the specie, because they have as many bills already out as their specie can redeem, yet they will “according to the usages of banks” violate the law and do the same “impossible and highly improper” thing by lending him “any quantity he might need (of irredeemable paper) to circulate in the western country.” It is issued as the *Star* admits in violation of law and without the means of redemption, but it is good enough “to circulate in the western country.” The *Star* says truly enough that this is “according to the usages of banks.” Objection No. 5 is twin brother to No. 6—that emigrants would be put to great inconvenience because they could not get the specie for their bills at home where they were issued.

Take notice then, farmers of Wisconsin, that the great argument against the adoption of the constitution is that it will prevent speculators from coming here and buying up your wheat with irredeemable bank bills. Their sole argument against excluding these bills is that the specie cannot be had in lieu of them. Neighbor, is such an argument satisfactory to your mind? If it is, we can only say to you, “Go ahead and be swindled to your heart’s content.” The *Star* says we certainly do not argue like one who is sincere in the cause in which we are engaged. We must ask the *Star* whether he is sincere in telling the farmers of Wisconsin that they must sell their wheat for bank bills, because these bills will not bring the specie. You must take bills, because they are irredeemable! If the *Star* is sincere in putting forth such arguments, we do not see how anyone can avoid the conclusion that he is sincerely foolish. If the wheat buyer cannot get the specie for the bills which he pays for wheat, it is equally certain that the wheat grower cannot get the specie for the bills which he takes for wheat.

The *Star* scares up another reason equally bright, to wit: that we should sell our specie to New York, but New York would not sell it back again, and says: “It requires no argument to prove that such a state of things would subject us to great inconvenience in our intercourse with other states.” That is a fact; it requires no argument to prove that a bad state of things would be had, but it does require some argument to prove that such a state of things would exist under our constitution. The *Star* has failed to show affirmatively that any such state of things would exist, and we



refer him to his second lesson in political economy which we sent him last week as proof negative in the premises.

But the *Star* seems aware that his mountain of reasons does not stand very strong, when he says: "We are aware that the *Argus* may cavil upon this question, but to us it appears to be a waste of time in this enlightened age of the world to argue such a question as this." As to the light of the age, you may put that under your arm. Half of the boasted light of the age is nothing but old darkness brushed up a little; and "if the light that is in you be darkness, how great is that darkness?" That is no "whid," neighbor, although we "nail't wi' Scripture," and the doctrine that men must dispose of their labor and its products for that which is worth nothing because it is worth nothing is one of the brightest specimens of dark light which ever dazzled the eyes of a bat and must forever defy scrutiny though it should be attempted through the medium of a smoked glass. \* \* \*

#### THE CONSTITUTION—ON SCHOOLS

[March 30, 1847]

One of the most important considerations in favor of the adoption of our present constitution is the munificent provisions it makes for the establishment and support of common schools. It provides for the choice of the state superintendent of common schools. The importance of this provision is incalculable, and we have no certainty that it would be embodied in another constitution. In addition to the sixteenth section in every township, it devotes the five hundred thousand acres of state lands to the support of common schools, originally intended for purposes of internal improvements. Congress has changed the terms of this grant in compliance with the resolution of the convention.

If the constitution is rejected, have we any assurance that this splendid resource will be devoted to this object? Is the doctrine so well established in this territory that works of internal improvement should be undertaken and prosecuted by private capitalists, and not by the state, that in another convention the opposite sentiment might not prevail, and the five hundred thousand acres of state lands be retained for such purposes instead of being devoted to common schools? From what we saw in the late convention we have serious apprehensions on this point. The universal Whig party hold most tenaciously that government shall undertake and carry on works of this kind. This as well as every other really valuable pro-

vision of the constitution was obtained by hard fighting, and we may depend upon it that if the constitution is rejected, its rejection will be tortured into a rejection of anything and everything which individuals or parties may dislike.

Again, all lands which may fall to the state by forfeiture or escheat are devoted to the same noble object. Adopt the constitution, and we have the resources for maintaining in the course of a few years a good common school within a mile of every dwelling in the territory during six months of every year. Reject it, and we know not what may become of the interests of education in another convention. Party whims or private interests in projects of internal improvements may ride over these paramount interests and involve the state in the complicated miseries of ignorance and debt.

### THE RESULT

[April 13, 1847]

The election is over, and the result is satisfactorily ascertained. The constitution is defeated by an overwhelming majority. Yes, we own up, beat—thoroughly used up; that is to say—the constitution is. Well, since it was to be defeated, we are glad to see it done up so strong, though we must confess that as the returns began to thicken upon us we felt some as the doctor's boy did when he was trying with the best possible grace to submit to a severe castigation. He grinned and twisted and squirmed, till in his estimation grinning and twisting and squirming ceased to be virtues and then exclaimed as the blows fell thicker and heavier, "There—there—there—that's sufficient, Doctor."

There can no longer be a doubt that a respectable majority of the Democrats of the territory have voted against the constitution. We are warranted in this conclusion by the known Democratic majority in the territory and the prodigious majority against the constitution, taken in connection with the well-known fact that large numbers of Whigs voted for the constitution.

The constitution being defeated, it is a consolation to us that a majority of our party voted against it, inasmuch as it bars the conclusion that the objectionable provisions which caused its defeat were not those which recognized and carried out the established principles of the Democratic party. So far as the Democratic party were responsible for all the principles contained in the constitution, by the large majority which they had in the convention they have undoubtedly met with a defeat. But the party is not responsible for all

the principles contained in that instrument. The Democratic members of that convention were elected to frame a constitution upon sound Democratic principles and not to invent new, untried, and unsound principles and saddle them upon the party as Democratic principles and they have met with a severe and merited rebuke from their own party for attempting it. Had they adhered strictly to sound Democratic principles, although those principles might have been more fully applied and carried out than has been usual in other states, they would have been triumphantly sustained by the popular voice.

But unfortunately our party had become too strong, and unprincipled demagogues from all parties had saddled themselves upon us from mere mercenary motives and succeeded in elbowing their way into the convention. Here they found themselves without political principles, destitute of political character, and neither possessing nor deserving the confidence of any party, and their only alternative was to construct a crazy raft from the slabs and edgings of all parties, constructed upon new and peculiar principles, and despite the warnings of old, tried, and substantial Democrats many an honest, simple-hearted one was induced to take passage. The captain and officers of this miserable craft must needs do some great thing which would give them notoriety and put them ahead, and "Hurrah for the homestead exemption and the rights of married women!" was the cry. And "Hurrah for the exemption and rights of married women!" was echoed from the piebald crowd. Listen to no reasons, suffer no discussion, down with all amendments, down with the Old Hunkers, hurrah for the Tadpoles, and with their own motley crew aided by a few honest-minded Democrats who ought to have known better they succeeded in bullying through these miserable humbugs, and actually made so much noise about them as to shake the confidence of some sensible men that these measures could not be popular with an intelligent and reflecting community!

Well, the constitution was completed, enrolled, signed, and submitted to the people—a noble instrument in the main, but blotted and marred by these unsound and pernicious principles, got up and crowded into the document for the special glorification of a few soulless, brainless demagogues and renegades. Sound and intelligent Democrats at this juncture found themselves in a most awkward and unpleasant predicament—under the necessity of endorsing or condemning the soundest and the rottenest principles indiscriminately.



Under these circumstances it is not strange that equally honest and intelligent Democrats should have taken opposite courses on the question of the adoption or rejection of the constitution, and considering the outrageously impudent, dictatorial, and denunciatory measures resorted to by vagabond politicians to coerce Democrats to endorse the vagabond principles which had crept into the constitution it is reasonable to suppose that multitudes who would otherwise have voted for the instrument have recorded their votes against it as the only means of reducing such politicians to their true dimensions and teaching them better manners.

A portion of the Democratic press in its anxiety to secure the good features of the instrument has endeavored to defend the whole. In this respect we have differed from others. We have been opposed to the exemption and the rights of married women (falsely so called) from the outset, and for expressing in our paper a plump condemnation of these principles when they first passed the convention a scene was enacted in the convention hall which for the honor of the territory rather than that of the persons engaged in it we will not describe. The constitution being submitted to the people, we preferred on the whole its adoption to its rejection and have labored to defend such principles contained in it as were defensible and left such as were not to be defended by those who insisted upon placing them there. But the whole is defeated. We regret the result, and still more do we regret the causes which produced it.

#### THE COURSE OF THE *DEMOCRAT*

[April 13, 1847]

The editorial contents of the last number of this paper are just what we should have expected from the owners, aiders, and getters-up of the concern. We said long ago that this sheet was in the bank interest and its owners traitors to the Democracy. They have now furnished the proof to our hand; and we hope the party will open its eyes to the machinations of this squad of federal defaulters and skimmings from the cauldron of political depravity.

The paper says: "The people of Wisconsin have voted that they will have banks!" It is false. We deny it. The people have voted for no such thing. No objections, save to the sixth section, were ever urged even by Whigs to the bank article. Talk about the people of Green, Lafayette, Iowa, and Grant counties voting for banks! Talk about the Democracy of Wisconsin voting for banks!

It is a libel on their integrity. We do not know three Democrats in Dane County in favor of banks if we except the *Democrat* squad, and not a man who voted against the constitution on account of the bank article. Yet we now predict and know that the *Democrat* and its troop of conservative Federalists will henceforth become bank champions. Whiffing with every breeze and trimming their sails to catch every gale they will now desert Democratic principles, which they never embraced with any sincerity of heart.

Again, this sheet says: "The next convention will undoubtedly be Whig." Could the rankest federal sheet have claimed more? Who authorized this Tadpole concern to strike the Democratic flag? Where did it learn that the lion-hearted Democracy of Wisconsin had abandoned the field, and would "undoubtedly elect Whigs?" The editor doubtless thinks them as great fools as his peculiar clique are known to be knaves, but he is mistaken. The Democracy of Wisconsin never surrender. That a large number voted against the constitution no more makes them Whigs than the late desertion of the Tadpole tribe from the federal ranks now makes them Democrats. They are still true to their Democratic principles, and like freemen have dared, whether right or not, to vote as they saw fit upon a question of mere expediency and law.

While we regret the defeat of the constitution, the result is not entirely unexpected. We had strong hopes until we saw the infamous course pursued by three or four bags of wind, who were so anxious to hear the noise of their own penny trumpets that they fell to crying down men every way their superiors. The ashes of the dead were violated to stab the living. The old, gray-haired veteran executive was assailed and every effort made to drag his name into the controversy, although he had studiously avoided all participation in the contest. The scenes of 1840 were reënacted—rowdy doggerel was sung—anvils fired—whiskey drunk—ridiculous flags raised—and little bodies puffed up large with the wind of ambition, whose recent defection from federalism was notorious, went around our county exhaling their wind and piling up large masses of words, and at the same time denouncing old Democrats and threatening to drive them out of the party if they did not follow their rush light. To be sure, there were two or three exceptions to this rule, but the little potato brood, incapable of appreciating their own insignificance, utterly disgusted the whole people. This accounts for the result in Dane County. Had the voice of reason been listened to, it would have been widely different.

We are glad this sheet is finally showing its colors. It avows its bank sympathies, and gives up an unfought field to the enemy without offering to strike a blow. It holds to no principle, but is willing to follow any evanescent glare which shines across its path—as if either success or defeat could change Democratic principles. Well, let it go over to the enemy where it belongs. Its idiotic ravings have damned the constitution in this county, and the quicker it leaves the better.

THE POSITION OF J. A. NOONAN<sup>17</sup>

[May 18, 1847]

MADISON, May 12, 1847

*To the Editors of the Argus:*

Enclosed I send you the copy of a letter which I on Saturday addressed the editor of the *Detroit Free Press* in relation to some misstatements made respecting me by a Milwaukee correspondent. The motives and views of the Democratic portion of the opposers of the late would-be constitution have been so grossly misrepresented both within and out of the territory that I will thank you to give the reply a place in the next number of the *Argus*.

Yours respectfully,

J. A. N.

MADISON, May 8, 1847

*To the Editors of the Free Press—*

GENTLEMEN: On my arrival at this place last evening a friend called my attention to a letter in your paper of the 27th ult. dated "Milwaukee, April 16," in which it is stated that I voted against and opposed the adoption of the constitution which has lately been before the people of this territory, and that I "with other bank Democrats distributed appeals to the 'brother Whigs' to rally to their aid."

I deem it my duty to say to you that the author of the letter in his allusions to me uttered but one truth and asserted two unqualified falsehoods. The truth is that I voted against the constitution. The falsehoods are that I am a "bank Democrat," and that I circulated appeals to "brother Whigs to rally to the aid" of those opposing the constitution.

It is true that I did in common with over eight thousand other Democrats in this territory vote against the crude and illy-digested thing called "the constitution," and we claim we had a right so to do,

<sup>17</sup> Josiah A. Noonan came to Wisconsin from New York in 1836. In 1838 he established the *Madison Wisconsin Enquirer*; in 1841 this was removed to Milwaukee and the name changed to the *Courier*. Noonan was postmaster at Milwaukee from 1843 to 1848 and from 1853 to 1857. He bore a prominent part in the early political life of Wisconsin, and was famous for the number of lawsuits in which he engaged. He died at the Wauwatosa asylum in December, 1882.



both as citizens and partisans. The members of the convention that signed and supported the constitution as well as the respectable number that did not sign and opposed it disclaimed that the question of adoption or rejection was a party question. The Democratic members of the territorial legislature did the same; and [at] all the Democratic county conventions that alluded to the subject at all as well as at meetings of the supporters of the constitution resolutions of a similar import were passed. In fact the friends of the constitution went farther than this. They issued circulars appealing to the Whigs, as partisans, to support the constitution, and in their appeals reminded the Whigs of the fact that some of the most novel and prominent—and I might say fraudulent—features of the constitution had never been broached nor advocated in any public body in the territory except the Whig convention for Dane County, held at this place last fall.

Among the most active in the support of the constitution in the territory were ex-Governor Doty and a choice lot of politicians of that ilk; and among the opponents, as I am credibly informed, were all the members of the territorial Democratic central committees, a majority of the present central committee, and eight out of every ten Democrats who had been in Wisconsin five years and upwards. In order that the Detroit Democrats may see how much of a party question the adoption was I will state that among the most effective supporters of the constitution were Maj. J. S. Fillmore, late proprietor of the Milwaukee *Sentinel*, J. S. Rowland Esq., late of Detroit and recent editor of the same paper, and John Strong Esq., late of Grand Rapids in your state. Those at all acquainted with the gentlemen above named and dozens of others in Milwaukee that I might mention can tell how much of a Democratic party question it must have been to have enlisted their active and zealous support.

So far from the imputation being well-founded that myself and other Democrats that opposed the constitution did so because it prohibited banks, directly the reverse was the fact. The sixth section of the article on banking, which prohibited—or it was intended to prohibit—under heavy pains and penalties the circulation in the state of any notes of less denomination than twenty dollars, was looked upon as impracticable and absurd, especially when our pecuniary relations with the old states were taken into consideration. But the warm advocates of banks, both before and during the sitting of the convention, that profess to belong to the Democratic party with scarcely one exception supported the constitution;

and the reason given by their principal leader for their so doing was that in supporting it they "were physicking ultra Locofocoism to death with its own medicine." Several prominent Whigs went for the constitution on this ground alone.

The insinuations that the Democratic opponents of the constitution did more than its advocates to gain the support of the Whigs the writer knew to be untrue. The six first meetings called to oppose the adoption were calls for Democratic meetings with the names of from two hundred to five hundred Democratic voters attached to them. The friends, on the contrary, called their meetings to the very last without respect to party and implored in the most beseeching manner the support of all; and in some instances where they thought they could gain votes by it they were frank enough to make the truthful declaration that the question pending was not intimately connected with our party divisions, but was one of expediency only.

Your correspondent throughout his letter shows a degree of ignorance of the territory and a regardlessness of truth that indicate with sufficient distinctness who he is. Bankrupted and run out in every respect in two or three states he was spawned upon the territory a few years since in a condition of utter moral, political, and pecuniary destitution. The only capital he had on hand to commence business with was a naturally inventive genius for humbug and imposture. This was "to let" to any party that would pay best for it, and unfortunately his interests were such that he became ostensibly enlisted in support of the Democratic party. The defeat of the constitution was a severe disappointment to all such politicians. The prospect of Wisconsin's becoming a state has afforded them capital to play the political broker with at Washington and elsewhere for the last two years.

The votes of our honest Democracy have been mortgaged by them a half a dozen times over to presidential aspirants, thus imitating the example of their prototype who offered from the mountain large possessions to the Saviour upon certain unworthy conditions. Their promises and capital are shattered and their calculations broken in upon by Wisconsin's not becoming a state at the moment predicted. Another reason for the manifestation of so much soreness is that such politicians thrive only in times of high political excitement. It is only when the political cauldron is at high heat that the scum generates and collects upon the surface.

Still another and perhaps as potent a reason for the manifestation of so much peevish malignity as any other is that in defeating the

constitution the prospects of placing beyond the reach of creditors' bills large amounts of property which are now in the hands of dummies have also been defeated. Their case in this respect was fully provided for in those Horace Greeley provisions of the constitution—the rights of married women and exemption.

You must pardon me for throwing myself upon your generosity, to occupy so large a space in your columns. There have been so many gross misrepresentations and thereby so much ignorance engendered abroad in regard to the position of those Democrats that opposed the constitution that it seemed to me I could not say less and give you and the Democrats at a distance, generally, a correct glance at the situation of things here. Had I time to show you how the body that made it convened in disorder and ill humor—sat in confusion, and adjourned in disgrace—the only wonder you would have would be how it was contrived to get as many votes for it as it received.

It is sufficient for me only at present to say that after the adjournment of the convention the Democracy of the territory had this issue only presented to them—reject the constitution and thus visit their party with a slight temporary injury, or adopt it and bring upon it certain damnation.

The Democracy of this territory are sound to the very core, and you will not find them wanting to give a good report of themselves at the next presidential contest if they are left alone to manage their own matters in their own way. There is no spirit of bankism, conservatism, or political treachery abroad here, out of the knot of corruptionists and blacklegs that are now grieving the hardest and crying the loudest over the defeat the constitution recently met with. Nineteen out of every twenty of the Democrats that voted for the constitution openly expressed their disapprobation of it and voted for it only because of their anxiety to have a voice in the next general election. Nor did this consideration induce them to give it their support, until after its leading friends had pledged themselves to go in for amending the objectionable features as soon after the adoption as possible. You and others will learn if you live long enough that there is an essential difference between a New York Barnburner, an Ohio Radical, a Missouri Hard, and a Wisconsin Tadpole. The former have the credit even from their enemies of adhering firmly to about all of the most cherished principles in the Democratic creed and of generally acting with the party. Not so with the Tadpoles. Principles and party fealty are mere things of convenience with them, which they have and will put off or on as



occasion may demand. They are for harbor conventions to censure the president, or for a strict construction of the constitution; for the tariff of '42 or the one of '46; for or against the war with Mexico, as interest may seem to require, and in favor of General Cass, Silas Wright, J. C. Calhoun, General Taylor, or anyone else for president who in their estimation has the best prospects of success and will offer the most for their crazy help.

Very respectfully,

Yours obedient servant,

J. A. NOONAN

SELECTIONS FROM THE MADISON WISCONSIN  
DEMOCRAT

## OPPOSITION TO THE CONSTITUTION

[February 13, 1847]

We congratulate our friends that the interested enemies of the constitution have signally failed in forcing the bill providing for a new convention through the popular branch of the Legislative Assembly, which they with a recklessness indicative of despair attempted to do. The sturdy yeomanry of the Democratic house proved faithful to their political charge, and would not attempt to destroy the doings of their political brethren in the convention and prejudge the popular will by concurring in the insidious bill as adopted by the Council. We say that the "interested" enemies of the constitution have failed, for of the many reasons that operate upon the minds of mere politicians interest is of all others the most predominant. There are those who, governed entirely by an envious spirit, oppose the acknowledged liberal features of the constitution with the single hope that in their prominence in opposing this they may perchance be selected to frame another. This feeling exists to a very great extent, and we are satisfied that if a release of interest could be drawn up that would exclude these designing brawlers, but few of them we are confident would be found contending for its rejection. There were many gentlemen who were desirous of figuring in the late convention but who, probably [from] some oversight on the part of the people, were not delegated to perform that duty, and with disappointment rankling in their hearts they endeavored to create for themselves another opportunity.

Again, there was another class interested in the defeat of the constitution and who favored the call for a new convention. These were they who though members of the late convention were so much chagrined in not carrying out a particular hobby, and who became so unpopular as to lose all influence in the same, now sought another opportunity to become "constitutionally great." It was enough for men of Democratic principle in the house to know that the embodiment of the last class to which we refer had taken an active part in the deliberations of the convention, and who through the despondency of disappointed ambition resigned his seat therein, was now the opponent of the constitution and the patron of the bill. They knew that the great body of the convention

stamped their distrust upon the cold politician in leaving him in an insignificant minority, while the legislature, conscious of his political perfidy by his speech upon this bill, disavowed the federal bantling and refused the traitorous kiss.

Happily the objects of both classes were suspected and their personal designs destroyed—and thus may it ever be when ambitious demagogues strive to thwart the popular will and the public interest. Our enmity to this bastard bill was founded in political principle. The Democratic members of the late convention were elected as party men and in that body possessed nearly one hundred majority, and how Democrats (“professing,” shall we say) argue that it is not a Democratic constitution, we will not insult the good sense of our readers by attempting to explain. Independent of its wholesome requirements, it is enough for us to know how and by whom the constitution was made—and when we remember those liberal features that commend it to the favor of the unprotected many of all parties, we must ever doubt the honesty of principle in that Democrat who does not feel in his inmost heart a sympathy for its republican provisions, for in the mind and breast of every true philanthropist its Christian principles must find an abiding lodgment. As for those renegades who with but lip service worship at the holy shrine of equality and who would through their insincere professions make themselves unworthy ministers at her temple we care not how soon they join a more congenial brotherhood. In the support of this constitution the broadest principles of equal rights are staked, and he who falters is their enemy. For upon this issue “he that is not with us is against us and he that gathereth not with us scattereth abroad.” If the principles as contained in that charter do not address themselves to our good judgment and feelings, then may we indeed doubt the sincerity of our own professions, for from the very organization of man its real friend must prove its earnest advocate.

In the examination of some of the features of the constitution we purpose speaking our sentiments freely, and in our arguing before the people the patriotic motives by which interested Democrats are governed in their opposition it may be necessary for us to show a third class of professors who are officially interested in preventing the adoption of the constitution. This class to which we allude were originally enemies of state government, but having failed in deceiving the people upon that question they now seize upon some imaginary objection to the constitution as a justification for their course. Modesty would dictate on their part an entire want of



interference upon this question. It will depend upon their course whether or not the quantity of interest which governs them shall be presented to the public as explanatory of their zeal.

### PROSPECTS OF THE CONSTITUTION

[February 20, 1847]

We have just returned from old Iowa County. Everything there looks encouraging for the cause of the constitution. The rank and file, the voters of the county, are alive and promise that we shall hear from them in April in a way that will gladden our hearts. The honest, settled opposition of the western people against all banks and banking has been aroused by the efforts that are elsewhere made against the constitution in consequence of its containing this restrictive provision. This very article commends it to their warmest favor. An elective judiciary is generally supported. We did not see but one gentleman who was opposed to the popular mode of election and we conversed upon the subject whenever two or three could be gathered together, and when they couldn't we inquired of men individually. If our friends were as active elsewhere as in the mines we could not fear the result. Call upon your neighbor—show him the good features of the constitution that all men must favor. Read him the bill of rights; labor with him; and if its beauties are fairly presented, it must receive the sanction of the majority. Call county meetings; get out the people and let them hear the truth. The enemies of equal rights are privately at work, poisoning the ear of the public mind, supposing contingencies that never can arise, and if necessary have the documents in their pockets to show that they have the sanction of one of the judges of our courts who is willing to prejudge the matter in advance. Let the people know the personal interest that the enemies of the constitution have in keeping us out of the Union—that they are fighting for their very bread and not satisfied with having been fattened at the public crib they would, like leeches, never loose their hold till compelled to fall off from very repletion.

Every man who is a Democrat at heart would go for the constitution if it were not for these very disinterested patriots who are scouring the country and spreading their falsehoods wide cast. We know that in this vicinity nothing will deter them. With an impudent desperation, such only as a long life of public plunder can give, they are ready for every emergency, and if their misrepresentation has not entirely lost its force, they hope to be again

successful. We have heard that there are spurious copies of the constitution afloat printed in German. Not satisfied with meeting the question of the adoption of the constitution openly, they have resorted to fraud as a natural expedient. Here where they are known their efforts will prove harmless and their disinterestedness [be] properly appreciated; but they hope to create an impression upon the minds of those who have recently settled among us, and who, unacquainted with the inconveniencies of a territorial government, may not trace the cause of their Old Hunker opposition to the effect upon their purses. We have a strong feeling that upon the adoption of the constitution every county, more particularly Dane, should do its duty. It was here that we first urged upon the people the principle of an elective judiciary and a homestead exemption, and notwithstanding the determined opposition of the *Argus* and its editors both these principles were engrafted upon the constitution. We are not placed in the hypocritical position of supporting a constitution, to many articles of which we have been and still at heart are opposed. They all meet with our hearty support. They involve principles dear as life and for which, since our first number was issued, we have ever been contending. And the arguments that we offered in favor of the humane provisions that are now constitutionally endorsed we but here renew, feeling confident that the hearts of the independent freemen of the territory are with us, and that they will sustain the principles which we then as now believe to be for the best interests of the people of our adopted home.

#### THE EXEMPTION

[February 27, 1847].

Great efforts are being made by the interested opposers of the constitution to confound and mislead the public mind in regard to the application of the new principles set forth in that instrument. The opinion of "one of the judges of the supreme court" has been quoted from the Council to the barroom, accompanied by all the circumstances of its high source to give it weight among the many who are not familiar with the dark sinuosities of the law. The sophistry of high functionaries passes the more current as we have not the benefit of practical experience to confound them. But we would ask the public before taking the ipsi dixit of His Honor to apply the test which the law allows in regard to witnesses in our courts as to his personal interest in this contest, and as he will be found to be an incompetent witness read the article and make

the application themselves by the rules of common sense. The judge says that if the amount held by the debtor exceeds the number of acres or the amount in value prescribed, then the whole may be taken on execution. This is a construction without a parallel. The exemption laws of nearly every state have the precise reading of "not exceeding in value, etc.," and yet we will venture to affirm that no one ever thought before that a plate or a blanket over that amount would subject the debtor to the loss of the whole. The whole thing is perfectly absurd and only shows the desperation of the officeholders in fighting for their "bread and butter." Here is the section referred to: "Section 2. Forty acres of land, to be selected by the owner thereof, or the homestead of a family not exceeding forty acres, which said land or homestead shall not be included within any city or village and shall not exceed in value one thousand dollars, or instead thereof (at the option of the owner) any lot or lots in any city or village, being the homestead of a family and not exceeding in value one thousand dollars, owned and occupied by any resident of this state, shall not be subject to forced sale on execution for any debt or debts growing out of or founded upon contract, either express or implied, made after the adoption of this constitution, *Provided*, That such exemption shall not affect in any manner any mechanic's or laborer's lien or any mortgage thereon lawfully obtained, nor shall the owner if a married man be at liberty to alienate such real estate unless by consent of the wife."

But the judge further says that this constitutional enactment precludes all legislative action upon the subject of exemption, and as in it no provision is made for personal property, it leaves the poor debtor who has no real estate entirely at the mercy of his creditor, to the last rag of clothing and the last morsel of bread. If such is the case, then we must acknowledge that the mysteries of the law cannot be conveyed or comprehended by the English language, for the wholesome exemption laws which now exist almost any common sense man would suppose were amply secured by the following section of the schedule: "Section 2. All laws now in force in the territory of Wisconsin which are not repugnant to this constitution shall remain in force until they expire by their own limitations, or be altered or repealed by the legislature."



## THE PERSONNEL OF THE OPPONENTS

[February 27, 1847]

It might be well for the people, especially the laboring classes, to inquire what classes of persons are the most active in their endeavors to defeat the constitution. Does the opposition come from the hard working and producing classes, or does it come mainly from those who contrive to feed at the public crib and speculate out of the misfortunes of their fellow men? Does it come from the poor and the toiling thousands, or does it come from the rich—the would-be bank speculator and monopolist? Does it come from the quiet and unambitious portion of the people, or from the officeholders and office seekers? These are inquiries of no small importance, because the true answers to them indicate the opposition as being led on by those whose business interests are not identified with the elevation and independence of the masses. The leaders of the opposition who are now striving to move heaven and earth for the overthrow of the constitution we have reason to fear are actuated by other motives than the universal good of the people. In support of these allegations let facts be adduced. Is it not a fact too notorious to admit of denial, that the legal profession, in proportion to numbers, present a larger array against the constitution than the agricultural and mechanical classes of the people? Does this condition of things arise from the fact that the profession as a body are more deeply imbued with the principles of benevolence for the welfare of their fellow men, and that from their avocations in life they are possessed of a greater share of the milk of human kindness than other classes of the community? Is it not fair to suppose that the profession are possessed of like passions and frailties as other men, and that they are equally likely to be controlled by personal interest,—is it an interest that prospers most where strifes, contentions, and litigated disputes are best guarded against by the wise provisions of the law? Certainly not. As well might a farmer contend that a barren field will yield him a more productive harvest than a fertile soil.

Is it not a fact equally true that a large proportion of the men of wealth—speculators and monopolists—oppose the adoption of the constitution? Those who have an insatiate thirst for riches and for amassing vast possessions naturally oppose every arrangement in the organic law of the government which guarantees to the

laboring man an unmolested right to a sufficiency of property to enable him to enjoy some comforts of life and to educate his family. Honorable Marshall M. Strong, the champion opposer of the constitution, admitted on the floor of the Council the truthfulness of the assertion that "the merchants and business men of the territory are generally opposed to the constitution." And this the honorable gentleman seems to think is a good reason why the farmer, mechanic, and laboring man should vote against the constitution. Indeed, is the intelligence of the territory embodied in the merchants, business men, and speculators? Have they such a tender regard for the welfare of the laboring thousands that they care more for their interests than for their own? What say you farmers and laboring men? Will you vote against the constitution because it is an instrument that does not suit that class of persons who speculate for a livelihood and live on your earnings? Do you believe such persons care more for your prosperity and happiness than for their own? We believe that the farmers and mechanics of this territory are fully competent to judge of the merits of the constitution, and we trust they will not be governed by the opinions of business men and monopolists. We hold that the state or nation contains the most real independence where every citizen as far as possible has a right in the soil. If you would have a people enjoy a freedom of action and opinion, allow every citizen to become an independent freeholder. Slavery both mental and physical predominates most where the few monopolize the right of soil and where the interests of the laboring and producing classes are held at the mercy of the rich.

Is it not a fact equally true that the officeholders under our territorial arrangement. judges, clerks of courts, etc., as well as the office expectants, oppose the adoption of the constitution? Have these men so much love for the people that they give themselves no rest, and toil day and night to prejudice the people against the constitution? Are not some of these officeholders giving their time and money for the purpose of stirring up dissatisfaction and inducing the people to believe that the adoption of the constitution will prove ruinous to their interests? Why are not farmers and mechanics traversing the country for the same object? Is it because that farmers and mechanics have less benevolence of feeling and care less for the good of the dear people than the well-paid officeholders? Is it not also true that those who are known to be office expectants are taking unwearied pains to defeat the constitution? The constitution now before the people is particularly unsuited

to office aspirants who expect to succeed by other means than an appeal to the suffrages of the people; it makes every office of any prominence or importance elective. Political jugglers had much rather try their fortunes by bringing influences to bear on the appointing power than hazard their pretensions by coming directly before the people. It should be distinctly understood that one of the avowed objects among the leading opponents of the constitution is to deprive the people of a considerable portion of the elective privilege which the present constitution if adopted would confer.—*Southport Telegraph*.

“AGRICOLA’S” VIEWS ON RIGHTS OF MARRIED WOMEN

[February 27, 1847]

BERIAH BROWN ESQ.,

*Editor of the Wisconsin Democrat,*

SIR: The constitution recently agreed upon by the convention and to be submitted to the people on the first Tuesday in April next is undergoing an active discussion in the public press and among the people. As one of the citizens of the territory, feeling a deep interest in this question, I am desirous of submitting the following observations to the public through your paper.

I do not propose to go into an examination of the whole constitution; that would be too tedious for my purpose altogether. But in looking over the constitution I have been forcibly impressed with the article securing the “rights of married women” as one of great importance, the benefits of which can hardly be foreseen or anticipated. This article, so far as my experience goes, is new, in this country at least. It is nevertheless so plain and simple in its provisions that it is believed very little if any difficulty will occur in carrying out its objects.

That woman has long been regarded by the common law as a mere slave (so far as civil privileges are concerned) to her husband’s will cannot be denied. It is true that the husband is justly recognized as the head of his house. But does it follow that his wife is to be utterly cut off from all privileges and rights, so far as her own property is concerned? I mean that property which was hers at the time of her marriage, or which comes to her by will or descent afterwards. There certainly is neither reason nor justice in taking the property which today belongs to a single woman and appropriating tomorrow, without her consent, and against her own wishes, merely by the will of her husband, simply and only because



she has become his wife. Nay, much less is there any good reason why the property which comes to a married woman by descent or devise from her parents or other relatives or friends should be at once taken by her husband and disposed of, and I may say in too many instances utterly dissipated and lost, not only against her wishes and consent, but very frequently leaving her helpless and destitute.

The above supposed case, sir, is not one drawn from fancy, but it is such as every practicable man sees daily in the ordinary occurrences of life. Now the provision in the constitution is simply this: "All property, real and personal, of the wife, owned by her at the time of her marriage, and also that acquired by her after her marriage by gift, devise, descent, or otherwise than from her husband shall be her separate property."

It would seem that no principle of equity or justice is violated by this provision. If any reasonable man will reflect deliberately upon this article, it is confidently believed that he can come to no other conclusion than that it is just, it is right, and should be adopted. But it is said (and in some high places) that this provision will lead to dissensions between the husband and wife, that "woman is to be transferred from her appropriate domestic sphere, taken away from her children, and cast out rudely into the strifes and turmoil of the world, there to have her finer sensibilities blunted, the ruling motives of her mind changed, and every trait of loveliness blotted out." Is this so? I have carefully looked over this article again and again, and, surely, I am totally unable to conceive any such consequences as likely to flow from it. Is there anything so horrible in the fact that a married woman is in the possession of a few hundred dollars' worth of property, which her husband cannot deprive her of without her consent? What worthy and well-disposed man would feel himself aggrieved or injured by his wife receiving a devise from her relations of any given amount of property even upon the condition that he should not dispose of it without her consent? It is most firmly believed that few, very few husbands would reject a bequest made to their wives upon this condition, even if they could. No, sir, it is my opinion that almost if not quite every married man in the territory would gladly see a bequest made to and received by his wife upon this very condition.

But there is another view of this question much more important. How often is it seen that a young woman at the time of her marriage and for a few years thereafter is situated happily, enjoying the prosperity of her husband for a season, which happiness proves only

illusory, when sooner or later disappointment, calamity, or dissipation overtakes her husband, and all her future prospects are blighted, and nothing but want, misery, and destitution are staring her in the face. How often, aye, indeed, how often are such unfortunate cases met with! And now suppose only for one moment that this provision of the constitution was in operation, and this same wife had had at the time of her marriage a portion of property which had "remained her separate property" and was still hers and under her control, or suppose she should thereafter receive such property by gift, descent, or devise. How different, indeed, would be her prospects! Who that shall witness such a case but will exult and rejoice that the constitution of his state provides this security for the "rights of married women."

On the other hand, if the husband be a prosperous and worthy man, how can the wife's property, being beyond his control, be a source of affliction or trouble to him? Certainly the yearly income from such property will in some way come into the hands of his wife, and if she does not place it in his possession she will use it either for herself or her children, in either of which cases he will be directly benefited by it. But the truth is, in almost every case of this kind the wife will give her husband the whole control of the income from her separate property, since she will have no good reason to withhold it from him.

It is said again in opposition to this article that "such a law exists in France, and that more than one-fourth of the children annually born in Paris are illegitimate." Mr. Editor, if there is any man in this community more deserving of pity than another, it is he who is capable of uttering such a sentiment in opposition to this provision! What, sir, is this but a direct and slanderous imputation against the virtue of all our women! Our mothers, our wives, our sisters, and our daughters are all, all included in this fell denunciation! Such an objection is unworthy any man; it is unfit for public refutation, and as such I shall leave it to rankle in the heart of him only who has had the boldness and effrontery to state it.

In conclusion (for my article is already much longer than I intended) I will only say that so far as I am informed and have understood, this article is one of the most popular provisions in the constitution and will secure many strong friends for its adoption.

Most respectfully yours, etc.,

AGRICOLA

## SUFFRAGE AND THE ELECTIVE FRANCHISE

[March 6, 1847]

While the object of every constitution should be to dispense its blessings generally among the people, yet in most of the states unjust restrictions are thrown around some of the most intelligent of our citizens, by not granting those equal privileges that by nature they are entitled to. In the constitution under which we hope to live, the same equal rights are acknowledged as belonging of right to the foreign as well as the native-born citizens. Neither of them enjoy privileges that the other does not possess. The laws regulating the purchase, sale, and discount of property must under the constitution be general in its effects.

The same probation of a year's residence to obtain the qualification of an elector is meted out to both, the foreigner being required, in addition, to take an oath to support the national and state constitutions. Those, however, of our foreign-born citizens who were possessed of the qualifications of electors for delegates to frame the constitution are by special provision "entitled to vote for or against its adoption and for all officers to be elected under it, without any additional oath." We hope that every foreign-born citizen will examine this provision and remember it when he is about to exercise the high privilege of a freeman that this constitution gives him. Everyone will admit that this provision is as perfect, as liberal, and as just as any citizen could demand. Can anyone whose citizenship is thus constitutionally created and acknowledged hope to be benefited by a change? If, as we admit, all our rights are secured, why endanger these rights by making them an open question for another convention? They will not be extended; they cannot be improved; and any change or modification of the present suffrage and elective franchise article must be at the expense of the rights and liberties of freemen, who by the mere accident of birth first saw the light under another sun.

There is an objection, a deep-seated opposition to this article in the hearts of many of the opponents of the constitution. It is not publicly pretended by its enemies, lest those whom they would unjustly deprive of the elective franchise may be led to examine the present constitutional provisions upon this subject. This is studiously avoided, while every fanciful objection that ingenuity and



misrepresentation can suggest is presented to the foreign-born citizen as a governing motive why he should join the ranks of his bitterest enemy.

We hope that every citizen will read the whole constitution that he may be delighted with its beautiful features; but above all, let those that the constitution alone makes citizens "read, learn, and inwardly digest" this suffrage article and be convinced that their rights are now perfected and that the danger of an alteration is attendant upon their voting against the constitution.

We do not believe that in point of liberal principles another convention would go as far as the late one. Some of the delegates would contend that this suffrage article was popular with the people and hence must be altered to suit their views. To touch it is to injure, to alter is to destroy the acknowledgment of rights now guaranteed our citizens. Will the friends of the constitution see that this suffrage article is properly presented and understood?

#### RESOLUTIONS IN SUPPORT OF THE CONSTITUTION

[March 6, 1847]

A meeting of the citizens of Dane County favorable to the adoption of the constitution was held pursuant to call at the supreme court room on Saturday, February 27, to take into consideration the propriety of organizing a Constitutional Club, and to adopt such other measures as might be deemed necessary to secure the adoption of the constitution in Dane County. The call of the meeting having been read, on motion of T. W. Sutherland, Wm. N. Seymour was called to the chair, and Ira W. Bird and Daniel N. Johnson were appointed secretaries.

On motion of J. G. Knapp a committee of five, consisting of Messrs. J. G. Knapp, H. W. Yager, Chester Bushnell, H. A. Tenney, and John Nelson, was appointed by the Chair to draft and report a series of resolutions expressive of the sense of the meeting.

The committee having retired, R. W. Lansing Esq. made some remarks, which he concluded by submitting the following resolutions, which were on motion laid on the table until the report of the committee shall be received:

*Resolved*, That we view in the constitution a spirit of compromise and of liberal principles best adapted to all the present and future wants of the people, and as our delegates have shown by their extraordinary devotion to their wishes, welfare, and happiness, in protecting and guarding their interests their great regard and

respect for the people we, as a part of the whole community of that people, will most heartily and zealously respond to their devotion by giving the constitution a bold, vigorous, and untiring support regardless of the declamations and denunciations of demagogues, monopolists, sharks, sharpers, and political gamblers of every description.

*Resolved*, That the constitution as a whole strikingly exhibits the preëminent powers and varied talent of its authors, illustrative of the fact that Wisconsin minds are not inferior to other sections of our country, and that we have reason to be justly proud of her distinguished sons, and should therefore requite their earnest endeavors to advance the good of the people by a free, full, and unbiased confirmation of the constitution.

*Resolved*, That the article on the organization and functions of the judiciary contains several important and desirable improvements on the old system, and among these may be noticed, first, the creation of a supreme, circuit, probate, and justices' courts; second, the election of judges and justices by the people, who shall reside in the circuits for which they shall be elected; third, the election of a clerk of the circuit court and district attorney in each county; and fourth, the imposition of a tax on all civil suits commenced in the supreme or circuit courts, to pay the salaries of the judges, and that for these wise and wholesome provisions the constitution should receive, as it highly merits, the united suffrages of a free people.

*Resolved*, That we will give the constitution an undivided support, and will use every fair and honorable exertion to procure its adoption, and that we call upon our fellow citizens, without distinction of party, sect, or name, to come forward and aid us in our laudable endeavors to ratify and confirm the constitution, so admirably adapted to all the wants and necessities of the people, and so well calculated to protect and foster their every interest.

*Resolved*, That the constitution in many respects is well worthy the admiration and serious consideration of all good citizens, as being eminently calculated to advance the true interests, and to protect and cherish all the rights and privileges of the farmer, mechanic, and laborer, and to save them from a premature loss of their hard earnings, upon which, too often, the sharper and shaver glut themselves with impunity. That among the various provisions of the constitution not already enumerated may be mentioned the following, that is to say:

"It secures to the state 500,000 acres of land as a grant.

"It prohibits lotteries, the grand scheme of swindling.

"It guards against a state debt and thereby saves us from the ruinous measures of other states.

"It gives low salaries and thereby prevents corruption.

"It gives unlimited liberty of conscience; and on the subject of education it is fully ample and adequate to all wants.

"The elective franchise favors men not money, and is, therefore, quite liberal.

"It makes every man his own lawyer, which, by the way, will give to many of the professional 'small fry' leave of absence.

"Its bill of rights contains the most salutary and wholesome provisions contained in any constitution.

"And last, though not least, it contains a safe, expeditious, and cheap remedy for amending the constitution.

"*Resolved*, That the article on banks and banking contains the only true antidote a free and confiding people have to the oppressive operations of the moneyed aristocracy, the shaving propensities of rag barons, and the destructive speculations of banks and monopolists. That this article is well calculated to save our young and beloved Wisconsin from the fraudulent and destructive tendency of the operations of banks and banking and will exempt the people from the loss, destruction, and ruin consequent upon an explosion of rotten banks, and the circulation of a depreciated paper currency.

"*Resolved*, That among the many other and highly important provisions the article on the rights of married women and on exemptions from forced sale bears a conspicuous position, and settles beyond successful contradiction the following plain facts:

"First. The restoration to married women of those rights and privileges to which by the civil law they were and are entitled and from the enjoyment of which they have been unhumanly deprived by statutory enactments.

"Second. That the real and personal property of the wife before marriage and that acquired after marriage is secured to her, separately, in order to save her and her children, in the case of an unfortunate or dissolute husband, from want and starvation, and that this is in strict accordance with the principles of right and the honest dictates of humanity and mercy, which no honest man should either dread or fear.

"Third. That the saving of forty acres of land or a homestead to every family from forced sale is intended to protect honest industry



and meritorious poverty from the insatiable grasp of hard-hearted and merciless creditors, and to secure to the man, his wife, and children, the very means by which they are to obtain a living, and also to avoid that cruel poverty which has no friends and knows no mercy or mitigation, and

“Fourth. That the husband cannot in a moment of frenzy or rashness sell or dispose of his homestead without his wife’s consent, thereby putting it out of the power of designing men at once to beggar husband, wife, and children, and that so far as the credit system is connected with this article we hold it is a settled and undeniable truth that it will make buyers more honest and the sellers more discreet and circumspect in all their business transactions, and enable the latter so to husband their affairs as to meet all their engagements with certainty and save themselves from what too frequently occurs in this our day of wild speculation and unrestrained trading—bankruptcies, assignments, and ruin.”

The committee appointed to draft a series of resolutions having returned, the chairman reported the following, which were unanimously adopted, and the committee discharged, viz.,

“*Resolved*, That we will form a Dane County Constitutional Club, to be governed by a president and such number of vice presidents as may be appointed at any meeting, and two secretaries.

“*Resolved*, That in the opinion of this meeting the adoption of the constitution framed by the recent convention at this place will secure the essential rights and promote the best interests of the people of Wisconsin; while it is the only means of effecting a speedy termination of their present territorial vassalage. That, entertaining these views, we intend to vote for it—to work for it—and to recommend it to our friends throughout the territory, with all earnestness and energy.

“*Resolved*, That we hail the great leading features of the proposed constitution as presenting the surest, soundest, and broadest platform of civil and religious liberty ever yet laid before the world; and we deem their preservation inestimably more precious than the correction of a few alleged defects, which time and trial may yet approve, or which the people can alter, amend, or eradicate in their own time and way.

“*Resolved*, That, while we accord to every independent elector the right to think and act for himself, and while we freely admit that objections exist in different minds against different portions of the constitution, we cannot regard those differences as forming any suf-

ficient ground for opposing the whole instrument, or for subjecting the people to the danger, the delay, and the expense of a new trial for the doubtful chance of a better instrument.

*“Resolved,* That in view of the invaluable rights and interests involved in the adoption or rejection of the proposed constitution, we invoke to the subject the candid, cool, and enlightened consideration of men of all parties; we ask them to examine the ground on which they stand and to determine for themselves whether the result of a rejection of this instrument will not be disastrous to the public peace, fruitful in strife and division, prolific of debt and taxation, and, possibly, the first step towards a form of government hostile to the best interests of the sovereign people.

*“Resolved,* That the occasion calls for the best energies of the friends of popular government; that we call upon them to be up and doing; that we invoke upon their efforts a spirit of harmony, concession, and honorable union; that we pledge ourselves to one another and to the people of the territory to act upon these principles and to give to the constitution our hearty, united, and untiring support, until the ballot boxes shall tell the final result.

*“Resolved,* That as friends of the constitution we fear to endanger the dear principles of equal rights that are engrafted therein, by refusing to adopt the one now presented for our acceptance.

*“Resolved,* That while we recommend every voter of Wisconsin to support the constitution on its merits, we think it inexpedient to urge its adoption on party grounds merely.”

On motion of J. G. Knapp the meeting proceeded to the permanent organization of the Dane County Constitutional Club by the choice of J. C. Fairchild Esq., as president, and Ira W. Bird and Daniel Noble Johnson, secretaries.

The resolutions introduced by R. W. Lansing Esq. were then taken up and adopted. After several addresses from friends of the cause it was *“Resolved,* That the proceedings of the meeting be published in the *Wisconsin Democrat.*”

The thanks of the meeting having been tendered to the Chair, on motion the meeting adjourned to meet on Saturday, the sixth of March, at two o'clock, P. M.

IRA W. BIRD  
D. N. JOHNSON  
Secretaries

## "AGRICOLA'S" VIEWS ON EXEMPTION

[March 13, 1847]

BERIAH BROWN ESQ., Sir: In my other communication in relation to the constitution I confined my remarks to the article securing the rights of married women. I propose in this to examine the exemption from forced sale. This article provides that "forty acres of land, to be selected by the owner thereof, or the homestead of a family, not exceeding forty acres, which said land or homestead shall not be included within any city or village and shall not exceed in value one thousand dollars, or instead thereof (at the option of the owner) any lot or lots in any city or village, being the homestead of a family and not exceeding in value one thousand dollars, owned and occupied by any resident of this state, shall not be subject to forced sale on execution for any debt or debts growing out of or founded upon contract, either expressed or implied, made after the adoption of this constitution."

The object and intention of this provision is clearly manifest upon its face. It neither requires lawyers nor judges to expound its meaning, although it had been seen in some of the published speeches and other articles in circulation against this provision—it is said—"that it is the opinion of one of the judges of the supreme court and of several good lawyers that the adoption of this section repeals all laws and prevents all legislation upon the subject of exemptions"; and the same writer or speech maker says that "one of the rules for the construction of constitutions laid down by Judge Story is that the adoption of one provision includes all others upon the same subject." And he proceeds to argue that for these reasons no laws can be passed exempting chattels and other articles of personal property from sale upon execution. As well might it be said that because the legislature had at one time adopted a provision exempting one cow from execution they are forever thereafter inhibited from altering that provision or exercising any jurisdiction upon that subject by way of addition, amendment, or otherwise. Now, sir, everyone knows, even of the most limited information, that in almost all the old states in the Union the laws in relation to the exemption of property from forced sale upon execution have been gradually undergoing modifications and amendments for the last forty years.



I do not pretend to rank among the legal gentlemen, nor have I any pretensions as a lawyer; yet I am willing to place myself before the country in opposition to such a construction of this article in the constitution. It is not only against reason and propriety as well as against all the objects and intentions of its friends who adopted it, but it is equally against the common sense of every man, at variance with every day's practice, and calculated totally to prevent all improvement or advancement in our regulations, laws, or privileges whatever. No man should be envied for entertaining these opinions; he ought rather to be pitied, for if no advancement can be made or improvements suggested in our constitutions and laws, we have come to a standstill—have arrived at the utmost limit of human perfection and no further advance in human regulations is to be expected.

From a long course of observation I have become perfectly satisfied that one of the inherent principles implanted in man from his creation, growing with his growth and increasing with his strength, was this: that he was a progressive; by which I mean that he was continually undergoing changes, making improvements, advancing in science and arts, and consequently adopting new and improved systems of government from time to time, as experience should suggest or prudence dictate. In this view of the subject I am persuaded a great majority of the people of this territory concur, and therefore I have no hesitation in submitting this question to them upon its merits.

That a freehold estate should be secured to every household within the state to some amount I am fully persuaded a vast majority of the people are prepared to sanction. The only question in my view of the case is as to the amount of its value. The limitation is fixed by the constitution at one thousand dollars. What better or more proper amount could have been adopted? If anything be exempted, as a homestead of a family, it ought to contain a comfortable dwelling house and some land upon which provision for a family could be raised. And certainly less than forty acres would not answer that purpose, nor could the value be less than one thousand dollars, if the house and other improvements are to be calculated as a part thereof, which they should, as is manifestly the intention of the constitution.

While this provision thus secures to every family a house in which to live, if they have built it, and a small quantity of land from which this land [provision] may be raised, the limitation of its value to one thousand dollars effectually prevents its affording any protection to the fraudulent debtor; nor does it hold out any inducement or

encouragement to an honest man to become dishonest; neither does it afford any facilities for a debtor to obtain some credit and then refuse to pay because it is made applicable only to debts "contracted after the adoption of this constitution."

It has been said, "Every knave in every state in the Union or in any other country will bring his ill-gotten wealth into this state [since he] will be sure to be protected in withholding [it] from his creditors." These are indeed strong deductions; but are warranted by the article certainly not. In the first place, if any man has obtained goods on credit fraudulently, the constitution does not protect his forty acres of land from execution: and, in the next, the whole sum to which the protection extends in any case does not exceed one thousand dollars. Not an amount sufficiently large to destroy or corrupt the integrity of a man otherwise upright and honest.

The truth is, at least to my mind, the whole of this noise and opposition so much trumpeted about the country arises wholly, or mostly, at least, from a class of citizens vitally interested in forcing the collection of small debts from the poor and unfortunate. It is not intended by this remark to include all persons who practice a high and honorable profession, who are an honor to the country, and in its general character and reputation—while it is not designed to screen those who make it a business to stir up strife, and to aid in stripping the poor and unfortunate of the last cent in the world, in order to satisfy a rapacious and merciless creditor.

The common people of the country, as far as my observation extends, are much pleased with this article and do not see any danger in it. On the contrary they will support it with great unanimity; and you may rely upon it, this very clause in the constitution will secure many friends for it.

Yours, etc., etc.,

AGRICOLA

#### A MEETING OF THE OPPONENTS

[March 20, 1847]

Knowing the desperate shifts that the anticonstitutionalists are driven to in their opposition to the constitution and their great desire to manufacture public opinion upon this subject, as indicative of the sentiment of Dane County, we purpose showing the means that were used to bring the mongrel collection together, and some of the doings of their convention on Saturday last.

What with the curiosity of our people to hear addresses from gentlemen who have been heretofore prominent members of the Democratic party, and to learn their reasons and motives for this desertion of principle—what with the great efforts to beat up recruits in pseudo Democrats and from the ranks of the ultra Whigs who now disown the principles that they avowed before the election of delegates by sending handbills and runners through the county—and what with the fact of the influence of the territorial administration being directly brought to bear to encourage the disaffected—and what with the fact that the minority opponents of any proposed measure are always more attentive to public calls and more zealous in their work than the friends of the same usually are who rely confidently upon their majority—and what with the fact of the good sleighing, and the meeting being called on Saturday, our usual market day—yet the whole gathering, rank and file, speakers and drummers, not including the friends of the constitution, numbered about one hundred souls, or one-twelfth of the legal voters of the county.

In the absence of the expected orators, the amalgamated gathering was addressed by that disinterested opponent of the constitution, the Secretary of the territory, who of course disclaimed any personal interest in his opposition, and based his objections to the adoption of the constitution upon the articles of homestead exemption and the rights of married women and the celebrated sixth section of the bank article. We notice the last objection that our antibank friends may see that the opposition of the enemy is being diverted from those features of the constitution against which all their influence was first brought to bear, but which by calling public examination to them have only rendered them the more deservedly popular, but now shifting their ground from sheer necessity they are compelled to fall back upon their real sincere cause of opposition—that is the prohibitory article upon banks and banking. Political principle and a decent return for political favor must all be forgotten when “saint seducing gold that touch of hearts leads on the way.”

Another motive, perhaps more personally interesting in this instance than the one that can be generally addressed to the sordid speculator to oppose this the people’s constitution, might be found in the fact of

O what a world of vile, ill-favor’d faults  
Look handsome in three hundred pounds a year.

We are gratified that the attempt of this official to endorse foreign paper was made. It has opened the eyes of many to



the imaginary objections that have been used before with the people as reasons against the constitution, when no such objections exist in fact—and when he is able to satisfy the people of Dane that they had better have foreign trash circulated among them, then his bank speech may meet with a popular response and not before.

Another gentleman (Dr. Fox) addressed the meeting, not, however, upon the bank article, but upon questions on which republicans might entertain different opinions, but which did not appear to us as sufficiently satisfactory why we should not adopt the constitution. The councillor from this district (Hon. A. L. Collins) broke ground against “the sixth section,” also. Though as a Whig we have not the right to arraign him for sacrificing any principle—altogether it was a droll crowd—bank Democrats (what an anomaly) and bank Whigs. Successful Whig councillors and defeated Democratic ones, officers and aids, “black spirits and white,” friends of equal suffrages—and enemies thereto. We wish them all joy of their new allies.

#### TIMES THAT TRY MEN'S SOULS

[March 20, 1847]

We are frequently told that the old stand-bys of the Democratic party are found arrayed against the constitution; and we regret to say that there is some truth in the statement. Our regrets are somewhat mitigated, however, by the satisfaction of finding out our men. When the hard fighting is to be done which is necessary to extend liberal principles, it tries men's souls, and those who have gone with the multitude to share in the loaves and fishes, on the approach of danger desert to their natural allies, the enemies of liberty to the people. It is easy for men of accommodating virtue to profess Democracy while the party is in the ascendancy, and they can thereby appropriate to themselves the place of leaders and the rich share of the spoils, and for these they will battle manfully; but when our dearest principles are assailed and in danger, none but the true of heart are to bear the brunt and heat of the battle; the mercenary coward is not there. Some of these men have been taken by the Democracy on their professions and honored with high and responsible stations; others have been foisted upon them, but acknowledged and received because there was no test at the time but their words by which to try their sincerity. We do not include in this class those men who honestly oppose the constitution on account of some of the details in which no party principles are involved, but such as seek its overthrow by treacherously stabbing at those

principles which we hold dear and by the profession of which they have been elevated to power. Such is the Secretary of the territory, who from the organization of the territory to the present time has fattened upon the spoils of office more than any other man in it, and now uses the influence of his high government station to defeat the constitution, it is fair to presume because it will strip him of his pay and official dignity, but as he himself said in a speech on Saturday last—it prohibits the circulation of bank paper! Such is the Clerk of the Court, and late Territorial Printer, who has been elevated from the keeper of a “doggerly” to responsible places, and having got rich from the pickings of office now opposes the constitution because its adoption will be a pecuniary injury to him—that is, he will lose his place. He openly avows this to be the reason. Such is the great leader and embodiment of the opposition, who having been stuffed to repletion now turns upon his feeders. Such is H. N. Wells, who has had his full share of office. He presided at the territorial meeting which declared hostility to banks and bank issues as a Democratic principle, but carrying out the principle in the fundamental law of the land he now pretends to regard as a horrid thing. But the faults of this gentleman we cannot but regard with lenity. He is so mercurial that he cannot adhere to anything long at a time but has to keep bouncing like a teetotum or swinging like a pendulum first to one extreme, then to the other. His friends say that if election finds him at the proper poise, he will yet vote for the constitution. And such is the Tyler postmaster at Milwaukee, who is somewhat notorious through the territory for “errors of the head” by which his own pockets became well lined to the no great advantage of the public treasury. He, too, has been well paid for his professions of Democracy. But having by a little flirtation with the late administration got himself into a comfortable office beyond the reach of the people, there is no longer necessity for keeping down old sympathies, and he returns to his first love as the cashier of a Michigan wildcat bank.

In speaking thus of men who have heretofore acted with our party, we shall undoubtedly be accused of attempting to create divisions in the party; but we wish it distinctly understood that we are not bound to any party that is not bound to principles. Men may call themselves what they please, but words are not things; by their fruits we claim to know them. Some of the veriest aristocrats that we ever knew we have found claiming to be Democrats, and some excellent Democrats from the force of circumstances or

association acting with the Whigs. The present contest will draw the lines where they should be.

### ARE THEY HONEST?

[March 20, 1847]

On the first organization of the Democratic party in the territory at the capitol, at which H. N. Wells presided, they pledged themselves as a party to certain principles, among which was hostility to all banking corporations, and they appealed to all honest men of all parties to discountenance the use of bank paper as a circulating medium. Nearly every Democratic meeting in the territory from that day to this has asserted emphatically the same as the principles of the party in Wisconsin. With this understanding and with these views delegates were elected to the convention to form a constitution for the state, and acting under these instructions they incorporated an article in that instrument prohibiting the charter of banks and the circulation of bank paper below a certain denomination. Now what do we hear and see daily? Men who have contributed largely to make up the public opinion upon which this action of the convention was based, who have harangued public meetings, drafted resolutions, and assumed the lead in all questions of doctrine in our party, who have not only allowed but assisted in making this the established policy of the party oppose the constitution and predicate their opposition upon this very bank article. If their professions heretofore have been hypocritical, their opinions are entitled to no consideration now; but if they have believed what they professed, then they have apostatized, and can no longer be counted in the party, the mass of which has acted in good faith and will still adhere to their principles despite the attempted dictation of their would-be leaders.

Are those Whigs honest who have contended at every election that they were the only real antibank men; who published to the world as Whig principles, in Dane County at least, "opposition to banks," an "elective judiciary," the "homestead exemption," etc., and now oppose the adoption of the constitution on account of these provisions? We have a deep interest in knowing these facts, for in a Democratic government he who deceives the people by false pretenses defeats the popular will, robs men of their just rights, and should be held up to public execration as the most dangerous kind of a thief.



## "AGRICOLA'S" VIEWS ON THE JUDICIARY

[March 20, 1847]

BERIAH BROWN ESQ.

SIR: In my last communication upon the constitution my arguments were confined to the article on exemption from forced sale of the homestead, etc. I propose in this to examine the article on the judiciary.

To this article much opposition is made, and still more is entertained, especially by designing and intriguing men. There are, it is true, but few who are bold enough openly to attack the election of the judges by the people; and although this is the principal ground of their opposition, they endeavor to raise some side cut or collateral issue in order the more effectually to oppose this article. Hence it is said in one place that "the same judges who try the causes at the circuits are to constitute the supreme court for the rehearing of appeals or certiorari brought from their own decisions." In another place it is said that "the tenure of the office is too short," being but five years; while in a few instances only is it openly avowed that "the people are incapable of selecting good and competent judges"; though, as stated above, it is believed that this last reason is the one upon which all real opposition is founded. Entertaining this view of the case I shall endeavor to examine it somewhat in detail.

The broad basis upon which all our institutions are founded, if understood correctly, is this: That the government is vested in the people, is instituted for them, and that each individual in the community has naturally and inherently vested in him an equal share in that government, subject only to such accidental causes as may happen either with or without his own exertions to place him in a more or less prominent position among the people. If these premises are correct, it follows as an irresistible conclusion that all agents or officers to be selected to carry on the government should be selected directly by the people themselves. If this be denied, and any other mode of appointment or selection advocated, it must be upon the ground that "such other mode is safer and better." What is this but an assertion that "certain persons to be designated by the people and holding an official station are presumed to know better than the people themselves who are the most proper men among them for judges of their courts!" If this be admitted, it then follows, neces-

sarily, that the people are incapable of self-government; and our whole structure of free and republican government is overthrown and blown to the four winds of heaven; for, if the principle be yielded in one case, it is enough to destroy the whole.

It is conceded by all that the people should elect their governor, members of the legislature, and various other officers. "But," say these opponents to the election of the judges, "this proposition alters the case," thus assuming the language of "the Lawyer," on another occasion where his interest was involved. If it is right and proper to give the election of the governor to the people, why should the election of the judges be denied them? He is the supreme executive officer and in addition has legislative and even judicial duties to perform. Will not the same objections apply in the one case as in the other? It is impossible to make a satisfactory distinction. This opposition to the election of judges can only be entertained by the opponents of a republican and free government. It is an argument against all the principles of Democracy. It is the same as has been used in all ages of the world by the advocates of monarchy. To sum the whole up in one line, it amounts to this and nothing less: that the government of man is an intricate science, unknown to the mass of the people, understood only by those who have peculiar qualifications which fit and qualify them to be judges or to hold any or every other office in the government. With those who hold this opinion I have no community of sentiment; nor do I believe the great body of the people of this territory entertain any such notions.

I will now advert to the objection that "the same judges are to sit in the supreme court, on review, that hold the circuits." This in point of fact is true; yet the circumstances in which the judge is placed and with which he is surrounded entirely remove all the objections to it. In the first place, he is associated with the other judges, is compelled to hear a new argument, is referred to authorities, has time for examination and reflection before he is called upon to give an opinion in the supreme court, besides having the advice and counsel of the other judges. And in the second place, the history of the proceedings in other states where a similar provision has existed is full of instances where many of the ablest judges have upon a review of their own decisions declared against their previous opinions. The reasons why such change of opinion has occurred and will always be likely to occur are multifarious indeed. At the circuit a question is suddenly started requiring a prompt decision in order that the cause may proceed, when sufficient time cannot be allowed

for a thorough and careful investigation of a grave subject. Hence any opinion pronounced under such circumstances must not be regarded as capable of binding the conscience or warping the judgment of an upright and just judge. But even suppose that this consideration should have an influence upon the mind of one of the five judges. How is it to reach the other four? It is said by way of "deference to each other's situation." And thus it is assumed that because there are appeals pending in the supreme court from the decision of each one of the judges, made at some circuit, they, the judges—all of them—are to enter into a corrupt conspiracy to sustain each other's decisions without regard to equity or justice. This is indeed a "supposable case," but in my judgment it is not a probable one.

It would rather appear to me that this very fact of passing in review their own previous decisions would of itself create and beget a spirit of emulation among them in order to see which one of them had generally succeeded best in the circuits and therefore would be likely to secure the highest reputation. This is my conclusion; this is natural and common in like cases.

The other most common objection to the election of judges is that "the term of five years is too short." This I am aware is a spurious objection; but I am also aware of another fact, long ago established in my judgment, and that is this—that every question has two sides. On the one hand, suppose the people have elected a good and well-qualified judge who executes and performs the duties of his office with credit to himself and manifest benefit to the public; when his term of office expires, will not the same people be likely to reëlect him and thus secure his services for another term? Most certainly such will be the usual course, though I admit it is not certain. Now suppose, on the other hand, that it should be found after an election that the judge was unfortunately an improper and unfit person for the station—I ask, is not five years full long enough for him to serve? Most surely everyone must admit that it is.

This then, is not an objection to the principle of election but to the expediency of the term of office. It is presumed that few, very few, who favor the principle will oppose the constitution on this ground. It is not tenable and is only resorted to as a makeweight by those who are opposed to the principle itself. Let no friend, then, allow himself to be drawn aside by this side-cut argument. Depend upon it, whoever dwells upon this objection is an opposer of free



principles, an advocate of aristocracy, and a fit subject for a monarchical government.

Most respectfully yours,

AGRICOLA

### VIEWS OF "HOME" ON EXEMPTION

[March 27, 1847]

MR. BROWN: To whom should I address a few thoughts in favor of the fourteenth article of the constitution if not to him who was the first editor in Wisconsin to advocate the principle of homestead exemption?

Ours is one of the few constitutions that present a shelter for the wife and children in every difficulty that may environ the steps of an unfortunate but an industrious husband in his course through life. Every [all] female [s] in the territory should be zealous and, I hope, convincing advocates of an instrument that will save to them if married a home to them and their children. Under this constitution every man may in reality (and not in fiction of law) call his home his castle, since no enemy can dispossess him of his stronghold. A man who has a house to live in or forty acres of ground can keep his family together. If he has debts to pay he will be more able to discharge them than one that has had his house sold from over his head and his wife and children driven for support to an uncharitable world. No woman should consider that husband a prudent or humane one, who refuses to have secured to him and his family during his life and his family after his death a home to live in, in defiance of the heartless prosecution of unfeeling creditors.

No man can in justice to his family say he stands so perfectly safe against all pecuniary difficulties in the future as to be able to risk the reputation and happiness of those that Heaven has made dependent upon him for sustenance and support. No man who properly estimates these obligations can insist that he has the right to vote away the homestead of his family, that would otherwise enure to his widow and his orphans after his decease. Fathers and mothers should alike understand this article—she and the common children of both have an interest in the homestead. The father has a life estate; the reversionary interest belongs to the widow and children. Can any father in justice to himself and those that he loves better than himself deprive the children of "the spot where they were born" and virtually commit the distress which this constitution strives to prevent?

The homestead is not the homestead of the father. To use the words of the constitution it is "the homestead of the family" that it designs to secure. It allows them a house and home for the wife and children to live in as long as there is one of the family to reside in it—and at a time when the weaker sex and more helpless infants require more especial aid. No man can be worthy of confiding woman's love who would be so regardless of her comfort, health, and happiness, as by his vote to declare she should not at his death be constitutionally protected. Will parents consider these things? To them we commend a calm consideration of the article and of their relative interests therein.

HOME

### THE BANK ARTICLE

[March 27, 1847]

The contest on the constitution has at length resolved itself into the great issue of bank or no bank. All the other objections drawn from imagination and urged by false issues and misrepresentation have become untenable as they come to be discussed, and the country is now flooded with handbills, circulars, pamphlets, and newspapers filled with essays upon banking. We are gravely assured by these economists that the farmer will suffer by the adoption of the constitution a depreciation of twenty-five per cent on the price of his wheat; that all real property in the territory will decrease at least fifty per cent; in fine, that the business of the country cannot be done without bank paper. The sophistry of this reasoning may be easily shown by both argument and fact. In the western part of the territory it is well known that for the last five years bank paper has been little known in the business of the country, and specie has been found so safe, convenient, and readily obtained that advocates of banking in either of the political parties are as scarce almost as white blackbirds; and yet we well recollect and all in the mines at that time will recollect that bank paper was the only circulation in the country before this revolution was effected; and that the same reasoning was used and the same deductions drawn by the lead buyers, the speculators, and merchants to convince the miners that the loss would all fall upon the producer and that very heavily by attempting to do business with specie alone as a circulating medium as is now used by the wheat speculator and bankers through the East. But the headstrong diggers had been swindled enough and would try a change. The result proved as it will everywhere prove

that there is specie enough to do all legitimate business, and that we shall have it whenever we have produce or anything else to buy it with, and that any value not measured by this standard is fictitious and unsafe. The staple of the West has always commanded as good a price in proportion to that in the eastern cities under the specie as it ever did under the paper circulation—exchanges on the East have been much lower and all sorts of business—except gambling—quite as active. So it will be through the territory as soon as the fog which designing men have thrown around the subject will have evaporated before the light of reason and common sense.

#### AN ARGUMENT FOR HOMESTEAD EXEMPTION

[March 27, 1847]

The following is an extract from a speech delivered in the Michigan legislature on the bill to exempt the homestead of a family from forced sale, by J. D. Pierce of Calhoun County. Mr. Pierce was formerly superintendent of public instruction in Michigan, where he is held in high estimation for sound judgment and a philanthropic heart. The principle for which he contends is everywhere gaining ground rapidly, and the day is not far distant when the turning a family naked upon the world for the misfortune or improvidence of its head will be regarded with as much horror as imprisonment for debt now is. I care not what the professions of a man may be—he may affirm that he is friendly to the poor—to the laborer—but when he adopts such a course of action and especially such principles of legislation that must in the end turn that laborer with a dependent family into the highway, I have a right to put my own estimate upon the value of those professions.

I said, sir, that the relations of the gentleman were such that I expected he would oppose this bill. The great leader of the party, Henry Clay, has gone so far as to represent that class of men who have been deprived by the operation of laws in the older states of a home and who have left all and sought a home upon the wild, uncultivated, unappropriated lands of the far West, where the wolf and deer, with the Indians, have roamed for ages, as trespassers. I suppose he would write them down as pirates and robbers. But this is not all. When the labor of these very men has given a value to this land—for it had no value before—the cupidity of wealth is in hot pursuit to share in the spoils and to push them onward still. Now, sir, I undertake to say that there is no right, no justice, no equity, no reason in that system of legislation which puts it into the



power of the man who has voluntarily trusted another to deprive that man of a home and turn his family out of doors. Sir, I go farther. I plant myself on this broad principle: that every man has a natural, inherent right to being on the earth, and he has such a right to a portion of this earth. He has a right to enter into the family state, and to subsist that family, and he has an equal right to a portion of this earth on which he may plant a vine and fig tree; and under that vine and fig tree it is his right to sit, and no other man has or can have the right to molest or make him afraid. This is the right of every man, independent of all human legislation.

Sir, the God of nature hath made of one blood all nations of men, to dwell on all the face of the earth. And yet the legislation of this republic deprives thousands of a home, not only men able to labor, but the feeble, the sick, the lame, the halt, the blind, and more—and justice requires me to add to the list—helpless women and children. But all such legislation is founded on the grossest usurpation and is the perfection of barbarism.

One word in this connection with regard to the sneer at what is termed “progressive” Democracy. I cannot but rejoice, sir, that it has been my lot to live in an age of improvement. I can remember the time when such a thing as a steamboat, a railroad, a canal, the magnetic telegraph, was wholly unknown—when scarcely any of those things had entered into the dreaming reveries of the wildest imagination. There has been improvement in every branch of science—in the arts and manufactures, and in the mechanic arts. And is there to be no improvement in the science of government—no advancement in legislation and in the social condition of man? What if the conservative principle had been adopted at the time of the Revolution? What would have been the condition of these states? Look to Canada for an answer. There the conservative principle has been predominant in the government, and its fruits may be seen, go where you will.

Sir, let us go back a little. The first division of land of which we have any account was between Lot and Abraham. To prevent strife one took the plain, the other the hill country. The next division was when the people of Israel took possession of the land granted to their forefathers by deed of cession ages before. The whole land was divided by lot. Every man had a portion; every man had his possession—yea more—when there were no sons in the family the daughters came in for a portion. Under that system of legislation all were cared for—all shared in the inheritance. But this is not all. That estate could never be alienated under any circumstances:

for debt. Such was the policy of the Jewish law, it gave every man a home; it took care that no family should be left destitute; it allowed every man a piece of ground on which he might live and plant him a vine and fig tree. True, the use of this estate might be taken for a limited time for the benefit of the creditor. But it never could be alienated on account of debt. And once in fifty years all debts were canceled by the operation of law. Unlike the bankrupt law of the United States, designed and adapted to favor a certain class—the \$52,000 debtor—that law applied equally to all classes. Every man and every family returned to the full and quiet possession of the paternal inheritance.

How liberal the provisions of that code in comparison with our system of legislation. With us the man has been nothing—his family nothing—but money all in all! Wealth has ruled, has made laws, has governed with an iron, unrelenting hand.

Again, sir, the old English law of the barons was the law of liberty. Under that law every man's house was his castle; and it should be so. True there were many without home—many poor and dependent on the barons. But it is the principle of the law to which I refer. That principle was right; it constituted the first element of civil liberty. Without it liberty is but a name and freedom an empty sound. The same principle ought to be extended to every man in this country who shall by his labor procure for himself and family a home. That home should be inalienable except by his own hand and seal. Every man's house should be his castle. It is the business of the legislature to make it so—to throw around that home the shield of its protection.

SELECTIONS FROM THE MADISON *EXPRESS*MASSACHUSETTS' PROVISION FOR THE RIGHTS OF MARRIED  
WOMEN

[January 19, 1847]

The section on this subject in the constitution reads as follows: "All property real and personal of the wife, owned by her at the time of her marriage and also that acquired by her after marriage by gift, devise, descent, or otherwise than from her husband shall be her separate property. Laws shall be passed providing for the registry of the wife's property and more clearly defining the rights of the wife thereto as well as to property held by her with her husband, and for carrying out the provisions of this section. Where the wife has a separate property from that of the husband the same shall be liable for the debts of the wife contracted before marriage."

It will be observed that the property which belonged to the wife before marriage remains hers absolutely by force of the above constitutional provision, without any action of the legislature whatever. We have heard that some have contended that unless the legislature passes an act in relation to the subject, the above provision will be inoperative, but such cannot be the case. The language is plain and explicit; the wife's property remains hers after marriage for all purposes whatever. If it consists in money, she may loan it, or she may engage in trade with it, either alone or in partnership with others; she may exchange it for other property and do and deal with it as she pleases without the aid of legislation; the constitution gives her all this power. Legislation will indeed be necessary to prevent fraud, to provide some means by which the wife's property can be distinguished from the husband's, and by making it compulsory on her to register it, this may in some measure be accomplished; but it will be utterly impossible to prevent the grossest frauds so long as the wife is engaged in trade and is dealing with her property on her own account. A registry of her property one day would be no evidence of what she might own the next, if she has engaged in trade or in any business which made frequent exchanges and shifts of property necessary, and creditors of the husband would in such cases, we fear, generally find that the wife would claim whatever property they might resort to for the purpose of enforcing the payment of



their debts. A law of this kind to be enduring should inhibit the wife from engaging in business on her own account and provide how her property should be invested.

The state of Massachusetts by an act passed on the twenty-fifth of March 1845, gave married women the right to hold property in their own names without the intervention of trustees, free from the husband's debts, but inserted in the act this provision: "None of the property to be holden by any married woman by virtue of the provisions of this act shall be used or employed for the purpose of trade and commerce; but the same shall be invested in real estate, in stocks of the United States, in state stocks, in corporation stocks, in personal securities, or in furniture in the actual use and occupation of such woman." It will be seen that by this act the property of the wife is effectually secured to her, but she is not permitted to engage in business which would withdraw her attention from the affairs of her family—she is not taken from her appropriate sphere and placed in the countingroom or store of the merchant; she is not stimulated by the hope of making money in trade, to turn merchant or cattle drover, or to engage in any vocation incompatible with proper care and attention in her household. Not so with our law. It holds out to her all the inducements that present themselves to men to engage in trade and business, and if it produces its legitimate effect upon her character, we shall soon see females in every department of business and engaged in employments which will withdraw them from their families and prevent them from discharging those duties which have heretofore been considered to belong to them exclusively. In short, we shall see in every family where the wife has property two interests instead of one, and that peace and harmony which now so generally reign in the family circle give place to discord and contention. For our part we are not prepared for such a change in the social system as this law will produce; we cannot look quietly on and see the foundation upon which society rests broken up and subverted.

#### A NEW CONVENTION

[February 9, 1847]

Last Friday and Saturday the Council was occupied by a discussion of the bill providing for another convention in June next in case the present constitution is rejected. We may truly say that the discussion called out fully the ability of that body, with a wide range to exert itself in. The debate was not confined to the

question directly before the Council but extended to the merits of the constitution itself as those merits were related to the question by rendering more or less necessary the proposed law.

It is no more than an act of justice to the whole body to say that the debate was conducted with coolness and decorum, considering the magnitude of the question and the intense anxiety for the result felt both in and out of the Council. However we may differ from the opponents of the measure as to the correctness of their votes or the value of their objections we have the candor to admit that they exhibited far less tyrannical and proscriptive rage than usually characterizes their partisans elsewhere. We regret that their ideas of democracy or of the people's interest constrained them to oppose the declared wishes of the people.

The friends of the bill embraced in their ranks those councillors most frequently spoken of as men of talent, at any rate those most familiar with public service, whose names and characters have long been before the people—veterans in our legislative halls. With such advocates, backed by the petitions of three thousand five hundred citizens of Wisconsin, of all creeds and parties, it is not wonderful that the bill passed triumphant over all prejudice and faction in a body composed almost exclusively of men belonging to the party which the measure (in the estimation of its enemies) is designed to subvert.

The law is demanded by the people with great unanimity and earnestness, and even if no petition had been presented on the subject nor a voice out of the capitol raised in its favor, it is a measure whose wisdom and possible necessity ought to have recommended it to the favorable attention of the legislature.

Our readers will wonder what objections can be made to so reasonable a proposition—what argument or show of argument human ingenuity can devise against providing for a contingency, which, if it happens, will place us in a situation from which all will wish to be relieved, or if it does not happen, will render the law inoperative and therefore objectionable to no one. The alleged reasons for hostility are: First, that the constitution is sure of being adopted—there are no "ifs" about it; second, this law has no precedent; third, it will prejudice and endanger the constitution. Such arguments need no studied refutation, indeed no refutation at all. For the first, the constitution is certain of adoption, or it is certain of rejection, or its fate is doubtful. All must assent to one of the three positions. But if the first is correct, why the vote in April next? Why this solicitude? If it was or is certain to satisfy voters,

why didn't the law say that the convention should frame an instrument which should be our constitution? The very fact that we are called on to express our opinions at the ballot box proves the idea of a certain acceptance absurd. The toil and solicitude of its advocates prove it false. Then nothing remains but a doubtful fate or certain rejection, and whichever horn of the dilemma is taken by the opponents of the bill, they place themselves in the wrong. If the constitution be rejected, there is need of another convention at once. If it is doubtful, there may be a need, and the contingency should be provided for.

For the second argument, it comes with ill grace from progressives—men who applaud the constitution because it has no likeness in heaven or earth and may therefore be innocently worshipped as divine, and who bow to the newest features with the devoutest reverence. Do they cling to precedents? The fact is this bill has no precedent because in no state previous to this time has a session of the legislature come between the formation of a constitution and its submission to the people. There could be no precedent.

For the third objection, how can this bill endanger the constitution unless it is already in danger on its own merits? And if it is so, who can honestly wish to save it? If a majority of the people are in favor of it will they turn about and oppose and reject it because permission is given them to form another for the fun of the thing forsooth? Did not the disgraceful acts of the last so shock and disgust all good men that nothing but the fear of calamities to the state can force them to demand another convention? This, one would think, is a sufficient constraint operating in favor of the constitution. But it is not enough in the eyes of its friends to place the instrument beyond danger. A more powerful appliance is required, and it is found in the threat which the rejection of this bill virtually addresses to the people, "Take this constitution or you get none for two years!" Its advocates say, "Reject this, and in sackcloth and ashes you shall repent your temerity." Office or revenge is the watchword. They are determined to force it down and will let loose no screw which can be brought to bear in crowding it through. The desire to become a state is strong, the prospect of a long delay is hardly tolerable, and the fear of it is relied on for carrying the constitution.

We wish the people to know who the men are that have in this important crisis spurned their prayers and as far as in them lies thwarted their wishes and trammelled their action. It is evident from the following vote of the Council. The ayes denote the men



who wish to give the people an opportunity at the earliest possible period to get another constitution in case they do not approve the one now offered. The noes expose to popular indignation those who disregarded the prayers of 3,500 of their fellow citizens and are willing to delay the admission of Wisconsin into the Union for years, or force her to enter that Union distracted and disgraced, and unworthy even in the eyes of her own citizens.

Ayes: Messrs. Collins, Holmes, Lovell, M'Cartney, Strong, Turner, Wells. Noes: Messrs. Clark, Manahan, Palmer, Phelps, Singer, Darling. Thus the bill passed and is now before the house. Its fate is undetermined. But it is to be hoped they will not at once throw off their allegiance to the people and renounce the cardinal principle of republicanism—trustful reliance in the firmness and intelligence of the toiling millions. He does both who coerces them to support the constitution now formed by presenting the alternative: "this or none."

#### A HOSTILE REPORT OF A PROCONSTITUTION RALLY

[February 9, 1847]

MADISON, February 1, 1846

Great Political Caravan—en route to manufacture public opinion—arrived at the capitol last evening from Milwaukee.

Mr. Editor, were you at the capitol last evening? If you were not, I was, and there saw the same political farce reenacted which came off on Saturday evening, the thirtieth of January, at the great city of Milwaukee.

The political cavalcade arrived with telegraphic speed and assembled the faithful in the hall of the house of representatives, when the same Honorable Judge Helfenstein, who presides at all the meetings of this traveling caravan of officeholders, took the chair and proceeded to reappoint A. D. Smith, one of his traveling companions of the Milwaukee clique, chairman of the committee, who, after walking out of the hall, returned in about five minutes with a long series of bombastic resolutions, which he could not have concocted and written out in an hour, and which no doubt had been prepared at Milwaukee for the occasion before the caravan left, and presented them; whereupon the youngest member of the late constitutional convention moved that they be adopted. The preamble and resolutions, characteristic of the framer of them, full of bombast and fulsome with praise and laudations of the late convention and the constitution, were indeed to any unbiased mind a rather sickly affair. The chairman being called on by the man of

the National Hotel to narrate what had been done at the meeting at Milwaukee above alluded to, the modest traveling chairman went on to explain that he had with a great deal of diffident reluctance presided at a meeting on Saturday last, after the company with which he went to the town hall had pulled from the chair the chairman of another meeting which was there organized to take measures for opposing the constitution, and that having taken the chair he and his clique passed resolutions that the people would and should vote for the constitution, and then pledged his political standing as a Tadpole that the people would vote for it. At any rate, he thought that those of Milwaukee would.

Next I heard two or three faint voices call for Smith, when a rich scene came off. Two young aspirants of the same name were about to respond to the call. The one had brought the ready manufactured resolutions before the meeting, and the other, to keep his claims bright before the public, had moved their adoption. Which was meant by the call seemed doubtful till a voice called out Governor Smith. At this the youngest member of the late convention sunk back in his chair, evidently somewhat disappointed, and the bogus governor rose and threw himself on the same stereotyped speech which he uses on all occasions; and here we might quote from this same bogus governor's message in the lobby a few days since, that

Where ignorance is bliss  
'Tis folly to be wise.

Is it possible that this paragon of consistency—this choice excerpt of all that is magniloquent on or off the stage—is looking ahead for promotion under a state government? Is this the ground of his anxious solicitude? Has someone to whom a place was assigned given up his claim and given a chance for promotion to the people's governor? Rumor, with its thousand tongues, says that a compromise has been effected, and one of the stipulations requires amends to be made for the follies of the past. Hence the arrival of the caravan with the "canonized bones" of the constitution in its train, attended on its way by political weathercocks turned by the ever shifting breezes of interest. Then came the government hyenas, screaming over their funeral banquet ere yet their victim is fairly consigned to the grave which the people are digging for it. The master of the collection was a government officer, who has no doubt received instructions from his master at Washington, and is not yet disposed to retire from public life. Too modest to bear his "blushing honors," but believing it to be his imperative duty at this "momen-

tous epoch in our political history," he has consented to lend himself to do the dirty work of political aspirants whose motto is and ever has been "Rule or ruin."

The next part of this political farce was in a call for General Hubbell, a lawyer of Milwaukee. The General rose and went on for a time with his likes and dislikes, until he had the audience completely in doubt on which side of the fence he would fall. But at last, unfortunate man, he said we must have banks, when the whole caravan cried out "No! No!" At this I thought the speaker felt as if he had committed the unpardonable sin—as if his chance for Tadpole favor had by that unfortunate word slid from under him, and that his whole winter's work was lost; and here permit me again to use a quotation from the same bogus governor's message—

Let him that standeth  
Take heed lest he fall.

The General sat down, evidently not much flattered with the reception of his effort. Doubtless he thought of the bygone days of 1840 and said in his heart, "O that I were there again with Tippecanoe and Tyler, too."<sup>18</sup>

This wretched and corrupt combination to thwart the will of the people—to gag down their throats a constitution promulgated by a convention which the bogus governor tells us in his message has parceled out places of profit and honor to the favored few will meet that merited and stern rebuke which it so richly deserves. The annals of political rascality can hardly afford a parallel of so much impudence and dishonesty. It will recoil upon the actors in the drama and bury them in the depths of oblivion, or if remembered, remembered as political demagogues overtaken by justice.

#### UPSTAIRS LOBBY

#### "ROMULUS" OBJECTIONS TO THE CONSTITUTION

[February 23, 1847]

MR. EDITOR: The convention having ceased its laborious toils and the fruits of its labor being now before the people for inspection, your humble servant would say a word upon it with no other

<sup>18</sup> The following correction is from the *Express* of February 16, 1847:

"It will be recollected that we admitted into our columns last week a communication over the signature of 'Up Stair Lobby,' and headed, 'Great Political Caravan.' Among other names mentioned was that of General Hubbell, of Milwaukee. General Hubbell, seeing his name used by our correspondent, said to us that he was not here on political business, but attending to other affairs at the capitol, and was unexpectedly called out at the meeting. We did not hear General Hubbell's remarks at the meeting, but from what he and his friends have told us we are led to believe that 'Up Stair Lobby' did him injustice in his communication; and we regret giving publicity to it, for it is no part of our creed to injure the feelings of anyone without cause or provocation."



object in view than to discuss it fairly and to invite reflection upon it. If the constitution is calculated as it is to promote the general interests and welfare of the people of Wisconsin, in justice to ourselves and to the members of the convention whose sagacity and wisdom prepared it we should give it our approbation and support without regard to difference in political opinion. But if upon due reflection we believe its effects will seriously enter into and affect the fiscal affairs of the people, cultivate fraud, and retard the growing prosperity of the state we should promptly reject it.

It is well understood that the constitution of a state is its fundamental law, which creates the legislature, and to which its legislation must invariably conform—the main pillar that supports the dome of legislative acts that many sessions may accumulate to rest upon it. It therefore becomes the people to look closely and carefully to it; for if the pillar is rotten, weak, and tottering it is unfit to rest the future happiness and prosperity of Wisconsin upon.

You, sir, must have heard the specious arguments in favor of warming this crudity into life from many of its friends with whom you have conversed, and with me you must have thought that however good theoretically they may be, practically they will not apply. Many people may, however, be induced to vote for this constitution in April next, who dislike many parts of it as much as any who oppose it, because "it contains many excellent qualities, and the most odious parts can be easily amended with less expense than to call a new convention." True, it contains some wise and equitable provisions and many "excellent qualities"; and what object of hatred has not some redeeming qualities? The worst practical villain that breathes the atmosphere has, but it is no reason why we should embrace and protect him. And as to the expense I think a mistaken idea exists. But suppose it is a few dollars and cents cheaper to adopt it, in a present pecuniary view, is that a good reason for supporting it? Suppose I should say the lawless convict might change his wicked course of life with less pecuniary expense than to visit the condign punishment of the law upon him, by imprisonment or otherwise—would I not be answered that the experiment of such economy would be unwise and extremely dangerous to the community in which the experiment should be tried?

But let us see how the matter really stands with regard to the expense. Article six, on the organization of the legislature, provides for not less than seventy-five, nor more than one hundred and sixty members, and making the present apportionment one hundred, subject to be increased sixty! Now, sir, who is not prepared to say

that sixty would do as well as one hundred and sixty, and that the interests of the people would be as well cared for without being unnecessarily saddled with an oppressive tax to support a host of senseless office seekers?

Let anyone make the calculation for himself for a session of forty days with these facts before him: that each member has \$2 per day and ten cents a mile going to and returning from the capitol; and suppose the average distance of the members from Madison to be fifty miles, you will make one short session of one hundred and sixty members sum up \$14,400! Now, call the number sixty and the difference in one forty-day session will be \$9,000, which in ten years will amount to \$90,000.

Compare the cost of a new convention of moderate numbers, without considering the paralyzing effects of this one upon every branch of industry, and you will readily see that we could save enough to bear the expense of two conventions and hire a hundred honest men to go and look the members in the face while voting upon wild schemes of experiment.

What is the prospect for amendment? Two-thirds of both branches of the legislature must necessarily concur in the amendment before it can be submitted to the people, and we all know that such a majority is hard to be obtained in any legislative body.

If we adopt it with the expectation and hope of amendment, I fear our hopes are sadly against fate, for the obstacles are too numerous and mighty easily to be overcome. By adopting it we virtually say to the members of the legislature, we approve it as it is; and be assured they will so understand it and so let it remain until a train of alarming circumstances rolls in upon them or the handwriting is seen upon the wall. As well might we expect a reform in the hardened convict accustomed to robbery and blood as to expect a thorough amendment of this constitution under the present condition of the territory, before its withering effects reach and sorely annoy us. By adopting it we fasten upon us a system of fraud and oppression unknown to American legislation and not easily or speedily removed. In it the villain will find a friend and accomplice to aid him in his accursed schemes of robbery and plunder, and the honest and unsuspecting will be their ready victims.

You cannot be at a loss to know that I have reference particularly to the fifteenth article. And for the article on banks and banking, if nothing else would sap the growing prosperity of the state, that would effectually do it—bring down the nose of the farmer to the grindstone, make empty shelves for the merchant, and turn hundreds

out of employ. What a diabolical thirst for political fame and immortality must not the author of this article have had, while penning it in its original form! With everything ultra in his brain that was ever recognized by the "hards" or Hunkers he dipped his desperate pen into the ink, and—"The mountain labored and brought forth a mouse." The convention cut off its tail, and if the people do not effectually kill it, much mischief will be the consequence.

ROMULUS

### MAMMOTH MEETING—CONSTITUTIONAL<sup>19</sup>

[March 2, 1847]

"What has caused this great commotion! Motion! Motion!" etc.

MR. EDITOR: You have doubtless (in common with the public generally) heard of the great catastrophe—that is to say—the rumor about town of the great gathering last week of the friends of the constitution in this village. Sir, it is my good fortune to be in possession of some of the facts in relation to said "uprising," and if you deem the subject sufficiently interesting, I hope you will make public this communication. I desire this, not because I have any vanity to gratify, but for the reason that those who were so very unfortunate as not to be able to attend may be made acquainted with the facts in the case. That a very great multitude assembled, and that uncommon feeling was manifested on the occasion is apparent from the unparalleled excitement which has ever since prevailed throughout the length and breadth of our village—a commotion such as threatens to make "earth's foundation to the center nod."

Mr. Editor. I approach the subject with fear and trembling. To narrate correctly the proceedings of this tremendous gathering requires a greater scribbling propensity than I am endowed with. But if you will excuse my weakness, I will as far as possible "a round unvarnished tale deliver" of this most unaccountable demonstration.

Pursuant to public notice I repaired to the place appointed for the meeting and found the tremendous assemblage (some twenty-five or thirty persons) duly organized, Wm. N. Seymour Esq., presiding. The first business then in order was the appointing of a committee to draft resolutions expressive of the very high opinion in which the constitution was held by the masses. The committee consisted of five—two at least of said committee being disqualified from voting for the very good reason that they have not yet obtained a residence among us. But no matter, the Chair for some

<sup>19</sup> For a formal report of this meeting see *supra*, p. 364.



good reason failed to make the proper selection for committee men, and the ball immediately opened.

"The man of the National Hotel" here arose, and drew from his pocket a long series of windy resolutions, and after a short speech proceeded to read to the meeting. The resolutions approved of the constitution per se and denounced every man who dared to oppose it as an "enemy to the human race—cold blooded—inhuman" (I cannot attempt to follow the profuse expressions of the gentleman) etc., and finally sat down evidently much overcome with the effort, when Mr. Smith (not J. Y.) made a motion to adopt the resolutions *nem con.* At this the Chair became much agitated, and took the liberty to protest against the resolutions because they denounced good Democrats and endorsed the whole of the constitution, which was contrary to usage, and formally "gave notice" that if the resolutions were carried, he should take "leave of absence." A motion to lay on the table being in order, A. A. Bird moved to that effect, which, according to the decision of the Chair, was carried. At this the author of the resolutions took the alarm—the way he scratched up the documents was curious—and making rapid speed towards the door gave notice verbally that "they (the great gathering) might support the constitution as they d——d pleased," and retired. But his absence was short; he soon returned and requested the privilege of withdrawing his resolutions, when they were in fact snugly stowed away in his breeches pocket. At this moment the "regular committee" entered, J. G. Knapp, superintendent of territorial property, chairman, armed with a long set of resolutions adopted by the late Milwaukee constitutional meeting, and presented the same in "regular order." The resolutions were very moderate and left to each man the free exercise of his own judgment, untrammled by party discipline in the course he should pursue in regard to the constitution. They were purely of the Hunker extraction and very creditable to the gentleman who made the selection from the files of the Milwaukee *Courier*. On motion the resolutions were unanimously adopted, and in accordance with the preamble the great multitude organized itself into a "Constitutional Club," for certain purposes therein set forth, and proceeded to elect officers. Sundry nominations were made, and the choice for president finally fell upon our worthy townsman, J. C. Fairchild Esq., a progressive of the first water.

Deep repository  
Of the future and the past  
Give a mortal glory.

The scene which now followed beggars description. The "man of the National" had prepared to give battle to the Hunker tribe, and well did he perform his literary evolutions. I wish, Mr. Editor, that you had his speech. It was rich. He denounced in flaming words those who had presumed to question the wisdom of the late convention and pronounced the result of its labors the "personification of all that is great and good." When he took his seat Mr. H. A. Tenney, your very amiable opponent of the *Argus*, rose and very gravely inquired if the resolutions first introduced (which, by the by, had been called up) were offered with the "serious intention of being passed." This question was decidedly cool and set in motion the bitter waters of strife. He (Mr. Tenney) could not endure the exemption article. It afforded, he said, no protection to the mechanic, it was unequal in its provisions, and might have been better. He hoped the resolutions endorsing it would not be adopted.

Mr. Knapp wished to save the "pearls, gold, and jewels" in the resolutions, but they must undergo a regenerating process, and the "chaff" blown away. He was in favor of a reference to a committee.

The youngest member of the late convention here rose to explain, but before proceeding far inquired of your opponent of the *Argus* if he was in "favor of the constitution." This we thought very impertinent. Taking into account the fact that Mr. Tenney is not yet a voter amongst us and will not be at the April election I thought the question a strange one. I did not hear Mr. Tenney's answer, but presume it was satisfactory to the gentleman.

After this gentleman had explained his views and endorsed the resolutions the Chair rose and declared that he was "opposed to pouring vials of wrath on the heads of good Democrats"—that Marshall M. Strong was as good a Democrat as Smith, besides being a particular friend of his. Cries of "Order! Order!" "Go on! Go on!" were heard from the "great multitude," when the orator took his seat, declaring, however, that if the resolutions passed he would withdraw from the meeting.

"The man of the National" again took the floor, and after declaring himself to be an "old polyticianer" (a new word that) equal at least to Seymour, piled up the agony on the exemption article and the rights of married women in particular. He denounced the whole *Argus* concern as opposed to the adoption of the constitution and thought it time the people should know it. Here the whole house was thrown into confusion, and the efforts of the

Chair to keep order useless. The speaker's voice was almost drowned—so much so that I only heard the conclusion of his speech, which pronounced all the "guns fired by the *Argus* in favor of the constitution only so many popguns."

But, Mr. Editor, the question as to the adoption of the odious resolutions had to be taken, and Greek prepared to meet Greek. The nocturnal note of the screech owl was music to the ear compared with the din and clamor of commingling hope and despair.

As the crisis approached the excitement increased. But the peculiar claims of the speakers to be heard, urged as they were with "Democratic" pertinacity upon the multitude, were a little humorous, though by no means novel nor inappropriate to the attainment of the object, having no legitimate affinity either to the sublime or to the ridiculous. Some claimed preference on the ground of original Democracy—inbred and innate—and that as they had exhibited the best fruits through life of passive obedience and good works their claims of all others could not be rejected with justice.

At this juncture the "late federal lawyer" took the floor and boldly supported the exemption provision. During the time cries of "Order! Order!" were heard from various quarters, which being restored, the question was taken on the resolutions and carried in favor of adoption.

This was the signal for open rebellion on the part of the minority, and amid the confusion which prevailed I heard the chairman of the "regular committee" declare that he would not become a member of the "Constitutional Club." This was infectious among the Hunker tribe. The *Argus* man declared that he would not "encumber his columns" with such a set of resolutions, whereupon "the man of the National" declared that the reason was apparent, to wit: "the superior quality of his resolutions would throw the stolen ones quite into the shade." This created a general laugh, much to the amusement and edification of the "stranger from Sauk," who declared that he believed the course of gentlemen would tend to defeat the constitution. A motion to publish the proceedings and to adjourn being now made, the multitude "broke," and each man departed his own way.

Mr. Editor, you will probably see the mooted resolutions in the next *Democrat*, when you can read them at leisure.

So ended the "meeting of the friends of the constitution." If any man shall hereafter aver that among the friends of the con-



stitution at Madison the public welfare takes the precedence of personal pique and dirty motives, let him beg to be written down an ass.

LOBBY

VIEWS OF JEREMIAH DRAKE

[March 2, 1847]

COLUMBUS, February 19, 1847

ANDREW E. ELMORE Esq.,

DEAR SIR: I did intend to have answered your letter of the twenty-third of last month before now, but the press of business both at home and abroad has hitherto prevented me, for which delay I hope you will pardon me.

The fact of my name having been introduced into the public journals, it would seem for some time past, which fact renders it incumbent upon me to speak for myself and give some of the reasons for the course which I have pursued and shall continue to pursue and in so doing I disclaim any intention to influence the action of others.

I have endeavored to investigate the constitution in all of its bearings (which all admit contains much that requires material amendment) connected with the circumstances of its adoption by the convention and the measures resorted to, to secure the adoption of it by the Democratic party. You must recollect that the first ground taken in convention was that the convention was a Democratic convention and that they were bound to make a Democratic constitution, and you also know that the first measures proposed were of the most ultra nature and that after a long struggle to obtain a submission to the people of the bank question, which was refused, the article was passed somewhat in a more modified form. But it was soon found and so declared by a large portion of the Democrats themselves that the article was not in accordance with public opinion, and that an effort was made to modify the article by striking out the sixth section, which failed. You are aware also that after a resolution was passed by a triumphant majority, I think of seventeen, requiring the establishment of single districts throughout the state, a measure purely republican and absolutely necessary to the purity of the exercise of the elective franchise, it was reconsidered and broken down by the Democrats.

Notwithstanding all these, believing as I did that a large portion of the Democrats were determined to and would sustain the revisions

necessary through the legislature, and anxious as I was that the political condition of Wisconsin should be changed, I declared myself in favor of the constitution, supposing that the question of adopting it would be submitted to the people unincumbered of any party array of any kind. But in this I have found myself disappointed. On the twenty-fifth, ten days after adjournment, for the first time I saw a set of resolutions, reported to the party on the twelfth, and published on the fifteenth, appealing to the Democratic party exclusively, and with the names of many of those whom I had supposed were determined to pursue a liberal course in regard to revising the constitution through the legislature appended to the resolutions. I am bound therefore to believe that the Democrats are reunited, and therefore determined to adhere to the principles and policy set forth in them. One of the said resolutions was in these words:

“Resolved, That we recommend to our Democratic constituents in the discussion of this constitution harmony and devotion to our principles above all things, conciliation and goodwill among all brethren of the same true and sacred political faith.”

Now, sir, is not this an exclusive appeal to the Democratic party, utterly disregarding the body of the people in a matter equally interesting to all, and upon the decision of which all ought to be left to decide free from all party, local, or extraneous influences whatever? Most certainly I think it is.

I am unable to account for this novel mode of proceeding, except that the Democratic party intend to make political capital by the adoption of the constitution under such circumstances. They declared in the convention that they were bound to make a Democratic constitution; they submit it to the Democratic party alone for support, so that if adopted they will claim it as having been made by them and for them, and I have not the slightest doubt but they will avail themselves of the very fact of the adoption of the constitution as an argument that the people are in favor of their restrictive policy and principles, which I consider as being destructive of our best hopes and interests, and once adopted, I consider it beyond the reach of amendment through the legislature, for they will always be able to control more than one-third of the votes in one or both the branches of it. Another fact, the tendency and intention of which I think cannot be misunderstood. You are aware that thousands of our fellow citizens petitioned the late legislature for the passage of an act providing for another convention, providing this constitution should be rejected. But what was

the response? It was virtually thrown back upon them, and in effect saying, "We disregard your petitions, take it as it is, or take nothing," and this, too, after advisement with the leaders of the party, as I am informed. It only shows what we have a right to expect from legislative action hereafter.

Now, sir, in conclusion, you will recollect that I from the commencement decidedly opposed all party political influences being allowed to interfere with the formation or adoption of the constitution, and I am still of the opinion that a party constitution will tend greatly to involve us in interminable political strife which will seriously embarrass and injure our common interest, and viewing the whole matter as I do I must as in duty bound vote against the constitution.

I remain very respectfully yours,

JEREMIAH DRAKE

#### "M'S VIEWS ON THE RIGHTS OF MARRIED WOMEN

[March 9, 1847]

MR. EDITOR: As the question of adopting or rejecting the new constitution prepared for us is the all engrossing subject of discussion and the general topic of conversation throughout the territory, perhaps a few thoughts on that article which relates to the rights of married women may not prove amiss.

In taking up this subject, I will premise that I offer my views not so much because I regard this article as of itself sufficient to condemn the constitution, or that there are not other principles engrafted into this instrument far more pernicious in their tendency, and notions more radical and destructive of the best interests of society, but rather to combat if I am able the arguments of those who regard this article as containing of itself sufficient of good in its principles and provisions to counterbalance all the evils which may flow from the adoption of the whole, and as being the very acme of progress and refinement in modern civilization.

Modern ultra reforms are generally based upon the idea that laws best adapted to a perfect state of society are those best calculated for our present very imperfect state. This article seems to be founded upon the contrary assumption and asserts as fact that society is so bad and the rights of women so generally disregarded it is necessary to pass laws for their protection and even to destroy the harmony of that relation which God has made sacred and which the majority of mankind in all past time have recognized



and regarded. I believe neither the one theory nor the other, nor am I willing to admit that a blind reverence for the past or rigid adherence to things as they are impel me to this dissent. What are the evils which this article assumes and what the remedy it provides?

The principal argument we hear from the friends of this provision is that under our present laws the wives and children of drunken and profligate husbands are brought to poverty and distress without any remedy; that, however ample the provision a father may make for his child, it is liable to be squandered by an unprincipled husband. It cannot be denied that there are such instances, and that all that is most dear to man's heart he sometimes sacrifices to pander to base passions or gratify his brutal lusts. But these are the exceptions and not the general rule. What else so dear to the hearts of most men as the interests of their wives and children? For what other object will they labor so cheerfully and unweariedly? What else so nerves the arm and cheers the heart of him who toils for his bread as thoughts of the loved ones at home? The laws furnish all needful protection now, when they bind the husband to obtain the consent of his wife before he can dispossess her of her interest in the real estate, when they are so framed that a man can if he choose leave property in trust for his daughter and her heirs. But even this is not sufficient for those at the present day who arrogate to themselves the peculiar privilege of being the champions of woman's rights. They set aside the authority of God and His word, for that makes the man and wife one and indivisible—one in interest and one in affection. The law proposes that they be separate and distinct—separate in their interests and distinct in their pursuits. The Bible constitutes the husband the head of the family and says he is the proper one to take care of the interests of that family. This article says that each [both] are to take care of their own and imposes restraints upon the man, while the woman may act entirely without the advice and consent of her husband and without regard to their mutual interests. If the article was designed to protect the wife, and with no ulterior purpose, why was it not framed like the one now before the legislature of New York, so that the benefits or income of any legacy or devise are to accrue to the wife and her children, without conferring upon her separate and distinct rights, with powers and privileges hitherto peculiar to the other sex?

Many are led away by specious reasoning about woman's rights in the abstract, and insist that woman is degraded, a vassal, and a slave, unless she is put upon the same footing, of equal rights in

every respect with the other sex. By parity of reasoning it is right they should vote and be eligible to the highest offices of state or nation, and thus is dissolved at once the charm, the beauty, and the glory of the female character. But, say the advocates of this doctrine, this will never be carried out. Every woman who has a decent husband will of her own act make her husband the principal, the representative, and executor of her interest and estate. This is undoubtedly true and so it is that every woman who has a husband she cannot respect, who is the bane of her happiness, a curse to himself and all around, will do the same and when others scoff and despise she will weep and endure. And so their argument falls to the ground, and it is fairly proved that if a man really wishes to provide for his child against these contingencies he must to be safe (and as it is now done) leave property in trust for her benefit and use. But is it not true that the principle contained in this provision if carried out will tend to subvert the whole order of society? While it fails to give true elevation to the female character, will it not drag down and degrade the husband? And if it be not carried out to its fullest extent of mischief (and I have sufficient faith in the majority of the sex to believe it will not be) what other object will it serve except to cover fraud? The married ladies of this territory do not need or ask any such provision. It commends itself to rogues only, except it be a few tight-fisted fathers and superannuated mothers who look upon the marriage relation as a mere matter of convenience or at best as a mutual contract of separate parties, and not a sacred, indivisible union, and who look upon the husband (if he possess little of this world's goods) as the mere appendage of their daughter's happiness, who are by no means able to enlarge the boundaries of their affections, and are forever tormented with fear lest some extra advantages may incidentally accrue to him who is so unfortunate as to be their son-in-law. Away with such notions as these. We have been accustomed to look upon intermarriage as the grand assimilating principle, which is to make us one homogeneous people; that although we are now composed of every people and kindred and tongue under the whole heaven, so that our whole social system seems almost resolved to its original elements, when a few years have passed away new and strong ties will have sprung up, new relations will have been instituted, so that the whole will be bound together in a harmonious system. Shall we then, now that we are laying the foundation upon which society is to be built up, throw the apple of discord into families? What if it is covered over with gold, the results are none the less bitter. What Apelles shall then

arise sufficiently skillful to portray upon canvass the modern Venus with the wreath of gold, not of beauty or affections? No honorable rivalry will then make genius hesitate, but instead we shall have looks of scorn and words of bitter hate. Shall we then incorporate that into the constitution which shall cause that which has hitherto been the connecting link between different families to be the very means of arraying one family against another, the husband against the wife, and the wife against the husband? I trust this perpetual source of controversy in families, this fomenter of discord, and cover for innumerable frauds, will receive its quietus with the rejection of the constitution by the people.

M

## THE CONSTITUTION—THE EXEMPTION ARTICLE

[March 9, 1847]

The exemption of forty acres of land with the improvements thereon, the value of which is not to exceed a thousand dollars, is a subject that has engaged since the adjournment of the convention a good deal of attention from men that will for a time at least come under its provisions. It was doubtless designed to please that class of voters, and to catch their votes, which, if it could do, would secure a pretty important class so far as numbers are concerned. Many of this class have taken the matter into consideration and have discovered how it will affect their business and their interest, and if we mistake not the signs of the times, a large proportion of this class will oppose the constitution.

Nothing that could be done will do as much to establish an aristocracy among the people as this section in the constitution. It will draw a distinct line of demarcation between the men who have but forty acres and those who happen to have an eighty or a quarter section of land. Consequently, if a man is known to have but forty acres of land and a house upon it, he must be by the natural course of trade denied a credit, while the man who has an eighty will have forty acres' security for what credit he may want, while the man who has one hundred and sixty acres will have one hundred and twenty acres' and of course will be able to obtain a larger amount of freedom in the transaction of business. Take away this provision, and all will come more on an equality. Men who have large properties will of course be entitled to a larger credit in doing business; but it should be in proportion to the property which they possess. Under this constitution it will not be so. The



man who has but forty acres may be worth much more than the man who has an eighty. The forty acres may be worth the \$1,000, while the eighty may not be worth \$300; yet the latter will be better able to obtain credit than the man who is worth three times as much, and all because he has his property in a larger amount of land. Now in all this we contend there is no equality or justice. This provision will be a curse to him and not a blessing.

Much is said about giving him an inalienable right in the soil. But this does not secure him any inalienable right. The legislature may in carrying out the details provide many ways by which the land may be alienated. The act itself provides that it may be sold on mortgage lawfully obtained, or upon any mechanic's or laborer's lien. Here are two ways, at least, by which his property in this land may be alienated. A mechanic who works on or who builds a house, a man who furnishes lumber for building on the land, the man who breaks up the land may by legislative action consistent with the constitution obtain liens upon the homestead, by which his title may be alienated. And worst of all, if by his perseverance, industry, and economy it should arrive in value to be more than \$1,000, it is at once out of the pale of this law and enjoys no protection whatever. All the protection then that it enjoys is just enough to embarrass him in his business and to reduce him to a grade inferior in point of privilege to his neighbors, while in fact he may be worth more than the lord of eighty acres.

This is the point in the progression to which our progressive democracy has arrived. A plebeian or inferior order is to be established. We believe that most of the people of the territory know their rights and interests better. Some of our Shylocks contend that credit is not what we want—that it would be better not to have credit at all. We appeal to our neighbors who have but forty acres, and ask them whether they are willing to be placed by the law in a condition that they cannot get credit under any circumstances. Are you prepared to say now that you do not and never will want credit? We admit that it is better at all times to keep out of debt, when we can, but from what we have seen of the world, we come to the irresistible conclusion that there are circumstances where a little credit is of vast importance, and we should hesitate long before we would lift our hands to deposit a vote that would cut us off from the privilege of a lawful credit with our neighbors and reduce us to the condition of barbarians.

## MR. O'CONNOR ON RIGHTS OF MARRIED WOMEN

[March 16, 1847]

The article securing certain rights to married women in the proposed constitution of Wisconsin instead of being an original idea of our western ultraists was a rejected provision filched almost verbatim from the files of the conventional proceedings of the late convention in New York, which found its way there through some kindred spirit who was unfortunately elected to that body. Its absurd and dangerous provisions drew out the eloquence and sound reasoning of which a majority of that honorable body was composed, and on a reconsideration a quietus was put upon it by its rejection by a respectable majority. We would respectfully call the attention of all to the speech of Mr. O'Connor, as one of the voices from the Empire State. Voters of Wisconsin, weigh well this unwholesome provision before you allow it by your vote or your neglect to vote to become a part and parcel of our fundamental law.

Mr. O'Connor called up the motion on reconsidering this question. He remarked that the sudden manner in which it had first been brought up had prevented full discussion, had allowed no time for deliberate reflection, and led the convention to form a hasty judgment. He had not argued the point then, but rather than permit so important a resolution to be passed *sub silentio*, he would endeavor to compress within the allotted fifteen minutes argument enough to induce reflection. And he was sure that due reflection would induce a majority to reverse the former vote. He regarded this section as more important than any which had been adopted—perhaps than all the rest of the constitution. If there was anything in our institutions that ought not to be disturbed by the stern hand of the reformer, it was the sacred ordinance of marriage and the relations arising out of it. The difference between the law of England and that of most other nations was that it established the most entire and absolute union and identity of interest of persons in the matrimonial state. It recognized the husband as the head of the household, merged in him the legal being of the wife so thoroughly that in contemplation of law she could scarcely be said to exist. The common law of England was the law of this country, and both were based upon the gospel precept "They twain shall be one flesh." Pure as its origin—the fountain of Holy Writ—the common law rule upon this subject had endured for centuries; it had passed the ocean with our ancestors and cheered their first rude cabins in the

wilderness; it still continued in all its original vigor and purity and with all its original, benign tendency and influences, unimpaired by any change of climate or external circumstances. Revolution after revolution had swept over the home of married love here and in the mother country; forms of government had changed with Protean versatility, but the domestic fireside had remained untouched. Woman, as wife or mother, had known no change of the law which fixed her domestic character and guided her devoted love. She had as yet known no debasing pecuniary interest apart from the prosperity of her husband. His wealth had been her wealth, his prosperity her pride, her only source of power or distinction. Thus had society existed hitherto. Did it need a change? Must the busy and impatient besom of reform obtrude without invitation its unwelcome officiousness within the charmed and charming circle of domestic life, and there, too, change the laws and habits of our people? He trusted not. He called not only upon husbands, but upon brothers, sons—all who held the married state in respect—to pause and deliberate before they fixed permanently in the fundamental law this new and dangerous principle. No change should be made in the rules affecting husband and wife. The habits and manners built upon these rules and arising out of them could not be improved and ought to be perpetuated. The firm union of interest in married life, as established by the common law, occasionally in special instances produced deplorable evils, but its general influence upon the members of society was most benign. This was exhibited in the past history of England and in our own country and was visible in the existing condition of our people. Why change the law, and by a rash experiment put at risk the choicest blessings we enjoy? Husbands in America are generally true and faithful protectors of their wives; wives in America are generally models for imitation. The least reflection must convince that this state of manner amongst us results from the purity of our laws for domestic government. These laws ought not then to be changed lest manners should be changed with them. The proposition came in an insidious and deceitful form; it came with professions of regard for women and thus won a ready access to the favor of all good men; but like the serpent's tale to the first woman, it tended if it did not seek to degrade her.

He thought the law which united in one common bond the pecuniary interest of husband and wife should remain. He was no true American who desired to see it changed. If it were changed and man and wife converted as it were into mere partners, he believed a



most essential injury would result to the endearing relations of married life. A wife with a separate estate secured to her independent disposal and management might be a sole trader; she might rival her husband in trade or become the partner of his rival. Diverse and opposing interests would be likely to grow out of such relations; controversies would arise; husband and wife would become armed against each other to the utter destruction of the sentiments which they should entertain towards each other and to the subversion of true felicity in married life. Did time allow, he might illustrate by exhibiting the thousand shapes and forms in which these conflicting interests would operate mischievously. And though each might seem trifling in itself, in the aggregate they would form a mighty force—in these oft recurring presentments they would form a fatal means of irritation and dispersion. It might be said that the utterance of this thought was an unmerited reproach upon American wives and husbands. Nothing was farther from his purpose. It was the perfection and purity of these relations as now actually existing that commanded his admiration. His object was to defend those relations against the imputation that they could be improved or reformed. Married life as it was he wished to protect—homes governed by laws of divine origin—it was in this country as perfect as human institutions or human nature could be made, and he wished it to be left untouched in all its sacredness and simplicity. The state of society in this respect under the existing law was no proof that it would continue the same under a law precisely the reverse. On the contrary it was evidence in favor of the existing law. None could deny that the great fundamental laws of a community in respect to property have an essential influence even upon the workings of human affection within the domestic circle. In England the unnatural law of primogeniture prevailed, but there as with us the parent having property might dispose of it as he pleased; yet an English father, though loving his children with equal affection, puts off his younger sons with places in the army and navy, his daughters with a sorry pittance. In this country the opposite law produces exactly the opposite results; a father here would consider himself as violating a moral duty if he made any discrimination or preference in the division of his property, unless indeed some special cause should give one an equitable claim to a better provision than the others. (Here the hammer fell, but by unanimous consent Mr. O'Connor had leave to proceed.)

Mr. O'Connor said he would not trespass on this indulgence. A law like that proposed was unnecessary. Whenever the particular

circumstances of a family rendered it proper special settlements could now be made to secure the separate estates of the married women, and that was sufficient for any useful purpose. Indeed the utility of that power (marriage settlements) was very doubtful, for although it secured married women from being dependent on the affection of their husbands it was to be feared that it too frequently secured them from the enjoyment of any such sentiment. It grew up in the hotbed of wealth and luxury and it has never emigrated; it flourished there only.

It affected not the humble cottage or any great portion of society. Many doubted the wisdom of allowing separate settlements in any case; but he would not enter into that question. The theatre of their action was limited and lay among those who had many sources of enjoyment, and he would not change the rule on that subject. He would leave separate settlement to take effect only by the special act of the party. Then they would have no effect upon society at large. It is as the general law of the state—the laws operating alike upon all classes—and that case only which worked its way into the very frame of society became a part of the natural constitution of the people and permanently influenced for good or for evil the habits, manners, and morals of a country. The occasional acts of individuals have no general influence, but the general law of society if it were not the offspring would always become the parent of a general morality conforming to it.

He asked the convention to look at the state of society in the nations of Continental Europe governed by the civil law, where the estate of the wife was kept separate, and to compare it with the beautiful and divine simplicity of the married relation in England and this country, to contemplate high life with its separate settlements for the wife, its thousand luxuries and few real joys, and to compare it with the domestic relations as she existed in the ordinary walks of life, where this device of man's enemy was unknown. After such a comparison, would any man say that a change from these to those was desirable?

In reference to the system of marriage settlements, by which in special cases that relation is established between man and wife which the section seeks to make universal, Mr. Justice Platt says, "It tends to sever in some degree the marriage union, because it not only renders the wife independent of her husband as to her fortune, but bars him of a participation in it by new and increased impediments as if he were presumed to be her worst enemy. If matrimony is not desirable without these trammels, fences, and reservations, I

say marry not at all! The ancient rule of the common law was adapted to the state of manners in early times and accords but with the general simplicity of society among us at this day. I know that particular cases often occur where such restraints would be salutary, but as a general rule their operations would be unfavorable to conjugal happiness. A benign policy would not admit a rule which impairs the union and lessens the attributes of holy matrimony. It is better that confidence between husband and wife should sometimes be abused than that it should not exist in that relation. We often see acts of tyranny and cruelty exercised by the husband towards the wife, of which the law takes no cognizance; and yet no man of wisdom or reflection can doubt the propriety of the rule which gives to the husband the control and custody of the wife. It is the price which female wants and weakness must pay for their protection. That a woman should contemplate her intended husband as likely to become her enemy and despoiler and should guard herself against him as a swindler and a robber and then admit him to her embraces presents a somber and disgusting picture of matrimony. Marriage justly implies an union of hearts and interests; and the modifications of that relation which excessive refinement has introduced form an excrescence which should be extirpated."

Mr. O'Connor continued—The same ideas in still stronger terms are enforced in the same case by Chief Justice Spencer. This was the opinion of the pure minded Jonas Platt, of the venerable, wise, and profoundly learned Ambrose Spencer. If this convention should change the laws, invade the sanctuary of love, and entrench within it the fiend, pecuniary self-interest, he believed it would eventually change the whole character of the married relation in our country. He spoke for posterity, not for the present generation. If the members of this convention and the people acted unwisely in the matter they would go down to the grave unpunished, for the evil would not come in their day. Laws might be changed in an instant, but manners could neither be formed nor subverted suddenly. The present tone of society in this respect was too well fixed to be soon changed. It was the result of centuries of human existence under a wise law. The wives and husbands of the present day would retain the manners that law had created long after the law itself was abolished. But if this new rule should be adopted, the student of history in after times would condemn the act. From amid the less pure and incorrupt habits and manners of domestic life as then existing around him he would look back to the



present day with emotions akin to those which affect our minds upon contemplating the first family in Eden before the Tempter came.

### GREAT ANTICONSTITUTIONAL MEETING

[March 16, 1847]

Pursuant to a call made a large and respectable meeting of the citizens of Madison and vicinity opposed to the adoption of the present constitution assembled on Saturday, March 13, at the supreme court room in the capitol. At an early hour in the afternoon the multitude was called to order, when the meeting was organized by an acclamation call of Daniel Baxter to the chair, and D. West, assistant chairman. Royal Buck and J. T. Clark were appointed secretaries. On motion of Wm. Welch a committee of five was appointed to draft resolutions expressive of the sense of the meeting. The Chair appointed Wm. Welch, Edward Campbell, J. H. Lewis, C. R. Head, and Wm. C. Wells. The Honorable John Catlin, during the absence of the committee, obedient to the unanimous call, came forward amid the cheers of the multitude and most ably and eloquently addressed the meeting, setting forth many clear and forcible reasons why the electors en masse should, on the first Tuesday in April next, cast their votes against the adoption of the constitution, when the committee came in and reported the following preamble and resolutions, which were read and adopted by loud acclamation:

“WHEREAS, The time is close at hand for the freemen of Wisconsin to express their opinion for or against the adoption of the constitution now before them, at the ballot box, and claiming the right to express our views upon the great question pending prior to the election close at hand, do [be it] solemnly

“*Resolved*, That we are opposed to the adoption of the constitution for reasons too numerous to mention—that a wayfaring man can see at a glance that many of its provisions will have a tendency to retard our hitherto unparalleled prosperity, and that the people cannot live ‘prosperous, free, and happy’ under it.

“*Resolved*, That the fundamental law of the land should be a ‘fixed fact’ and removed from the arena of party disputes and party preferences; and that having secured to the people their inalienable birthright, ‘equal and exact justice,’ those rights should not be put in jeopardy by being made party questions in times of heated political action.

“*Resolved*, That a people whether in a national or state capacity can never be truly prosperous or happy when constitution or

statute law is continually undergoing radical changes; that such a state of things has a direct tendency to produce endless litigation and heavy expense to the people in the administration of justice.

"*Resolved*, That the bill providing for a new convention, introduced in the Council at the last session of the legislature, was one which the people approved of, and that the refusal of the house to give it the force of law was in plain violation of their expressed wishes.

"*Resolved*, That the arguments so often used by the friends of the constitution, that that instrument can easily be amended, if true also admit this fact that its wholesome provisions are in constant jeopardy from designing men, who make false issues before the people for the purpose of obtaining place and power.

"*Resolved*, That Wisconsin is entitled to a constitution which will promote the peace, happiness, and prosperity of her citizens, and that until we can get such an instrument we mutually pledge ourselves to each other and to the world to oppose any proposition to become a state, until those ends can be secured."

Dr. Wm. H. Fox next responded to the call of the meeting in an able and masterly speech. It was very evident during the Doctor's remarks from the loud cheers that came up amid the deathlike silence that he was touching into tune the tender chords of the sturdy bone and sinew by whom he was surrounded. He has driven a nail.

Honorable Alex L. Collins was next called for, who addressed the meeting at some length, touching upon several of the most objectionable features of the constitution. He handled the subject in a masterly style and carried conviction of the truth of his remarks by happy and appropriate illustrations. He convinced all present that the exemption article was made for the rich and not for the poor; that the rich man was protected by constitutional enactment, while the poor man, with not a spot of God's earth, was handed over to the tender mercies of statute law. His remarks were listened to with deep interest; and the applause which frequently burst from the audience told plainly that his sentiments were appreciated.

On motion of Mr. Welch, it was "*Resolved*, That the editors of the *Express*, *Argus*, and *Democrat* are requested to publish the foregoing resolutions, together with the proceedings of this meeting."

On motion, the meeting then adjourned.

DANIEL BAXTER, Chairman  
D. WEST, Assistant Chairman

R. BUCK  
J. T. CLARK } Secretaries

## WHIG ANTICONSTITUTIONAL MEETING AT JANESVILLE

[March 23, 1847]

At a Whig meeting held at the courthouse in Janesville on the twelfth instant the following preamble and resolutions were unanimously adopted:

"WHEREAS, A constitution is now before the electors of this territory which they will be called upon to adopt or reject on the first Tuesday of April next; and WHEREAS, it is of the highest importance to the prosperity and well-being of our future state that its fundamental law should accord with the principles of liberty, justice, and morality, guarding the rights of the people against the encroachments of power and shielding them from the assaults of fraud and corruption, preserving to each the exercise of his individual rights, and yielding equal protection to all, therefore,

*Resolved*, That the question of the adoption or rejection of the constitution is not a party question; that we oppose it, not as Whigs, but as lovers of good government, sound morality, and national freedom, and supporters of the doctrines of true liberty as taught by Washington, Jefferson, and Madison.

*Resolved*, That this constitution contains provisions at variance with the rights of the people, subversive of the principles of truth, fair dealing, and sound morality, and totally at war with the fundamental truths which are the basis upon which rests our whole social fabric.

*Resolved*, That it is the duty of every good citizen to oppose this constitution both with his personal influence and at the polls, and we pledge ourselves that we will use all honorable means to procure its rejection."

SPEECH OF THE HON. E. V. WHITON AT A MEETING OF THE  
WHIGS OF JANESVILLE MARCH 12, 1847<sup>20</sup>

[March 30, 1847]

MR. CHAIRMAN AND GENTLEMEN: The political party to which we belong has as yet had little to do relative to the great question now before the people of the territory. When delegates were chosen to form the constitution we nominated candidates of our political faith and endeavored to elect them. This effort was almost entirely

<sup>20</sup> Edward V. Whiton was a pioneer settler of Janesville, a prominent territorial lawyer and legislator, a member of the second constitutional convention, and chief justice of the supreme court of Wisconsin from 1853 until 1859.



ineffectual throughout the territory, for out of one hundred and twenty-five delegates chosen only fifteen or sixteen belonged to the party to which we are attached. This result, while it certainly did not deprive us of any of our political rights nor relieve us from the obligation of endeavoring to procure the adoption of a good constitution, deprived us of all power to act efficiently in the convention; a few "good men and true" of our political faith were there, but their opinions were disregarded, their remonstrances and expostulation ridiculed, and their voices drowned in the clamors of radicals. Indeed, sir, the intention was openly avowed by the leaders of the party in the majority of forming a constitution which should contain the principles entertained on the subject of government and laws by one of the political parties which divide the country; and it soon became apparent that, not content with this, the convention had determined to incorporate into that instrument the extreme opinions entertained by a portion only of that party, and that, the most theoretical and radical. Principles were advocated and adopted into the constitution which were admitted to be novel and untried but which it was said ought to become a part of the constitution because they were entertained by "progressive Democrats" and were a part of their political creed.

Mr. Chairman—Perhaps I may as well state here what I think a constitution ought to contain, or—to speak with more direct reference to the one now submitted to the people—what it should not contain. After providing for the organization of the government the objects to be accomplished by that instrument should be, mainly, the establishment of limitations upon the power of those officers who are to carry on the government, and especially upon the legislature. The legislative power, that power which makes laws, must necessarily be the supreme power in the state if unchecked and uncontrolled; and checks can only be applied to it by the constitution, by the direct action of the people themselves. It is clear to my mind, Mr. Chairman, that such an instrument should contain nothing to which any large portion of the people are conscientiously opposed. All republicans, all who believe in the fundamental principles of our government, hold all the doctrines which lie at the foundation of our political institutions in common, recognizing them and believing in them honestly as we all do. We yet differ as to the proper modes of administering the affairs of government and to some extent as to the character of the laws which ought from time to time to be enacted; but I repeat, sir, that in respect to fundamental principles of government there is a general agreement of opinion among us.



EDWARD VERNON WHITON

From an oil portrait in the Wisconsin State Capitol





Now a constitution or fundamental law which is intended to be permanent and which men of all parties are expected to support should be of such a nature as to inspire trust and confidence in all; it should be such an instrument as men of all parties may look up to with something of love and reverence. Above all it should not contain principles and embody theories which are believed in by only a portion of one of the great political parties into which the people of the country are divided. The Constitution of the United States ought to be an example to us in this respect. While we have bitter political contests, while the whole country is convulsed with the agitation of politics and the madness of parties, while a president or an administration is denounced for violating the constitution or the laws, and the halls of legislation ring with appeals to sectional and factious feelings—amidst all this din and uproar everyone feels that each department of government will be kept within its appropriate sphere by the constitution; for all know that this instrument is beyond the reach of factious men, a tyrannical administration, and furious partisans—all are sure that the constitution is too firmly fixed in the regards and affections of the people to permit its authority to be shaken, and that all must yield to an authoritative interpretation of it. But how would it be, sir, if instead of being what it is, it contained theories and opinions not common to all the people of the United States, but those only which are entertained by one of the great political parties of the day? Do we not all see that instead of having that authority over us which it now possesses it would be contemned and despised? Do we not all see that the country would be constantly agitated with efforts to change it, and its authority gone?

Sir, I have stated that soon after the convention assembled it became apparent that that body intended to incorporate into the constitution the extreme opinions held, and held only by a portion of one of the great political parties which divide the country. And how was that intention accomplished? What did the delegates to the convention say of the principles contained in the constitution with reference to the opinions of those who belong to the political party to which we are attached?

We all remember, sir, that we were told by some of those who assisted in making the constitution that they did not suppose they had suited us; they pretended to no such thing. Nay, more: one of the main proofs of the excellencies of the constitution was the opposition it encountered from the Whigs. We were not expected to like it; indeed, we were told that its provisions were hostile to our

notions of government, but that the "progressive Democrats" would support it, and that was all the support it required. But, sir, behold a change. When its provisions were found to be so monstrous that many of their own party could not be dragooned into the support of it, and when it became apparent that the division was likely to throw so many Democrats into opposition to it that its adoption by the people was endangered, the Whigs were coaxingly applied to, and an alliance sought with them by the "Progressives" to help the latter out of their difficulty; and now, instead of the impudent and supercilious air with which the advocates of the constitution were wont to approach the Whigs, they are all meekness and humility; they now profess to think that even a Whig may support the instrument without doing violence to his political principles, or at any rate if anything contained in it is so obnoxious to him that he cannot endure it, that the objectionable features can be stricken out by amendments after it shall have been adopted. Sir, if the former conduct of these men excited my indignation, I am sure that their present course to an immeasurably greater degree excites my contempt and scorn; and I am most happy to learn that intelligent Whigs view this conduct as I do.

But I do not oppose the adoption of the constitution for this; I look to the instrument itself, and I most heartily wish that I could find enough good in it to overbalance the bad, so that looking to its totality I could give it my support. Sir, I do not like political agitation; it is contrary to my nature and habits. But when I find principles contained in the constitution which are calculated to produce great and inconvenient changes in the manner of conducting the business of the community, and not only this, which strike at the root of the family compact, violate the plainest rules of morality in regard to contracts, and hold out inducements to the practice of roguery by protecting the rogue, I have no alternative; I must oppose it or consent to give up principles which I have been taught to consider sacred, and to the establishment of fraud by the law of the land. In discussing this instrument I shall not consider what I think slight defects and blemishes; "no man regards an eruption on the surface, when the vital parts are invaded, and he feels a mortification approaching to his heart." I shall find no fault with many things which are in my opinion really objectionable, but confine myself to what has been aptly called the "master evils" of the instrument. And in the first place I will call your attention to the bank article.

And here I wish to observe, sir, that I do not desire the establishment of banks among us at present. When I have been a member of the legislature, I have exerted myself to the best of my ability to close up the affairs of those I found in existence, which were unsound, and which were putting forth issues of bank paper which I was satisfied they were not able to redeem. Indeed, sir, I do not think at the present rates of interest paid for money among us it is possible for a bank which transacts a legitimate banking business to realize as much income from its capital as can be obtained from the same capital when employed by individuals. Hence I infer that at present, at least, capitalists would not wish to invest their money in bank stock, for honest purposes, if the proper and necessary restrictions were thrown around their business. I find no fault then, sir, with the prohibition upon banking which I find in the instrument; there will come a time when I may be in favor of a general banking law and the establishment of banks under it; but I am very free to say that I should vote for the adoption of this constitution if it contained no worse features than the one under consideration.

But the prohibition of foreign bank bills of certain denominations I view very differently. To say nothing of the gross violation of private right involved in this prohibition nor of the inconsistency of permitting the circulation of bank bills of the denomination of twenty dollars and upwards while all others are prohibited, let us look at the alleged motive for this provision. It is said to be the desire to furnish the people with a better currency than one composed partly of coin and partly of bank paper, such a currency as we now have. It is not supposed, I imagine, that the example of our convention will be followed by other states and bank paper generally excluded from circulation; on the contrary, it is supposed that it will continue to circulate in all the states with which we have intercourse. Now if the coin which is to take the place of bank bills here is so much better and more valuable than they are, as is pretended, it is clear that in order to obtain it we must pay for it, and we shall be obliged to pay the full amount of the difference in the value; the laws of trade will not permit us to obtain any advantage in the matter. This seems too plain to require argument, but let us look at an illustration. A and B start from this place each with a load of wheat. A goes to Milwaukee where nothing but coin (the better currency) is in circulation. He sells his wheat and takes his pay in coin. B goes to Chicago with his load where bank bills are in circulation; he sells his wheat and takes them in payment. Now if the coin is more valuable than bank bills, it will be found that just the dif-



ference in the value has been deducted from the price of the wheat for which it was exchanged, for the buyers of wheat will not give more for that commodity in Milwaukee than they can purchase it for in Chicago, the expense of transporting it to market from each place being the same. And we shall find that the same difference will be made in the price of everything we have to sell in the market, so long as all the states with which we have intercourse and dealings make use [of] bank bills as currency. "We cannot get something for nothing." Coin as a currency, if better than bank bills, will be more costly than they are for the same reason that a good coat will cost more than a poor one. And the idea that we can have a better currency than the world about us on any other terms than these is a solecism. Sir, I shall not attempt to show that the currency we now have is better than one composed entirely of coin. I am willing to take the advocates of this provision at their word and to discuss this question as though their statement of the matter of fact was entirely correct; but I must insist on the legitimate conclusion which follows from the premises which they assume. We then are to gain nothing it seems, sir, but vexation and trouble from the proposed change in the currency. But is it certain that this provision can be carried into effect? We all know, Mr. Chairman, the extreme difficulty of enforcing penal laws against offenses which are mala prohibita merely, which involve no moral guilt. In this country where the government is proverbially weak and public opinion omnipotent it is not hazarding much to affirm that no law of this character can be enforced, when in order to obey it the habits and customs of the people in regard to the matter to which it relates must be changed.

Now, sir, it is notorious that the entire population of the territory except the inhabitants of the mining region and perhaps some who were born in foreign countries never have seen such a state of things as the observance of this law would produce; their habits, methods of transacting business, and ideas are all opposed to it, and I anticipate in case of the adoption of the constitution a general disregard of the law. Indeed, sir, some of those who advocate the cause of the constitution attempt to do away with objections to the instrument arising out of this provision by taking this ground. It may be asked why, if I expect that bank bills will continue to be taken as they are now, in case the constitution is adopted, I should make this clause an objection to the instrument. Sir, most important consequences will result from this state of things, consequences which I cannot contemplate without horror. It is well known that officers under

the state government will be obliged to take an oath to support the constitution, that grand jurors will be sworn to make true presentment of all offenses against the laws which are within their knowledge. Now, sir, if the law should be generally disregarded and offenses against it not prosecuted, as seems to be anticipated by the friends as well as the opponents of the constitution, who can look without alarm at the state of things which must follow its adoption! Who with the belief that this state of things will exist if the constitution is adopted can vote for its adoption without incurring a portion of the guilt which it involves—the disregard, not only of the law of the land, but of solemn oaths!

I pass, sir, to the consideration of the article in relation to the rights of married women. The provisions of this article are entirely novel in this country and exist in no country where the inhabitants are of the same stock with ourselves. It must have struck you, Mr. Chairman, as it has everyone else, that this article changes entirely the law in relation to one of the most important subjects which can fall within the sphere of its operation; the laws upon most subjects can be altered, indeed entirely changed in their nature, and no consequences result which at all affect the structure of society, but this law affects principles which lie at its foundation. The change proposed will in its consequences reach to the very heart and core of social and domestic life. I think, sir, that probably there never was so great and violent a change accomplished in the laws of any country by one enactment as will be produced here by the one under consideration, should the constitution be adopted; all the great changes which have in modern times been brought about in Great Britain by the parliament of that country are as nothing compared with the change which the article under consideration will effect here. Catholic emancipation, the abolition of the slave trade, the reform bill, and the emancipation of slaves in the West Indies, all combined, have produced less effect upon the people of that country than will be produced here by the incorporation of this article into the constitution. Nay more, sir, it may well be doubted whether the separation of this country from England by the Revolution produced as great a change in the internal substance and structure of society and social life. And all this, Mr. Chairman, the convention undertook to do without being asked by any considerable number of the people. I think, sir, that no one supposed when we sent the delegates to Madison to form a constitution that the law on this subject as it has been for centuries was to be changed. Great changes in the laws of a country are usually preceded by discussions

among the people relative to the propriety of the change; the opinions of the public are usually ascertained to be in favor of the alteration before their representatives venture upon it; but in this case no such discussion was had; there were no manifestations of public sentiment in favor of this provision, but all were content with the law as it was. While the sentiments of the people of the territory on this subject were such as I have described them to be, the convention with a recklessness which has no parallel inserted this clause into the constitution. Mr. Chairman, I have stated that this provision will produce most important changes in society. This will, I am fully persuaded, be the case when the country has been longer settled, and become richer, when estates become so large as upon division to give to daughters any considerable amount of property. But at present the law will have very little effect; in nine cases out of ten it will be productive of neither good nor evil, except as it teaches a most pernicious doctrine; for we all know, sir, that at present females who get married among us take little with them from the paternal mansion but their parents' blessing. Not oftener certainly than I have stated do they take away property with them which the law does not now exempt from execution and which can be sold to pay the husband's debts; so that so far as the great mass of the people are concerned, the law can have no operation. But as I have stated, when the people of the state shall have become wealthy and married women shall have property, the principles of the law under consideration will be fully developed and their consequences felt.

It may be well, Mr. Chairman, to consider here some of the consequences resulting from the marriage contract, as it exists in this country and in England, in order to appreciate the changes which will be produced by this clause of the constitution. In the first place the legal existence of the wife is merged in the husband; she cannot make contracts; she cannot sue or be sued alone in our court; she cannot have any separate personal property; and the real estate she may own is, while the marriage contract continues, under the control of the husband. As a necessary consequence of this the husband and wife can have no separate interests; on the contrary, all their interests are so far as the law can make them identical. It must be apparent to all that this circumstance is one of the most powerful bonds of union and concord between them; its importance cannot be overestimated. We see in the world around us collisions of interests destroying the strongest friendships and even filial and fraternal ties. Brothers and even parents and children whose inter-



ests clash as a general rule cannot be said to regard each other with the affection which those intimate relations under other circumstances usually inspire; and when they are so situated as to come often into contact with each other we see them frequently in open and undisguised hostility.

All right-minded men, Mr. Chairman, must concur in opinion as to the importance of preventing as much as possible the operation of this selfish principle in the intercourse of those whose relations with each other are so intimate as those of husband and wife. But, sir, how is it with this provision? It teaches the wife that she has an interest dearer to her than the common interest of herself and her husband, something so sacred that even the husband whom she loves must not intermeddle with it; it entrenches within the charmed circle of domestic life one of the most debasing passions of the human heart, one which in the intercourse of men with men produces more animosity, more discord and contention than all other causes united. Where there should be love, affection, and confidence, it plants distrust, the fruitful cause of alienation.

It is to be remarked, too, sir, that this constitution gives the wife the personal control of her property; it may be managed by her as she pleases. At present the marriage contract imposes on her obligations which she cannot discharge if, as this instrument permits her to do, she engages in trade with her property on her own account. Do you think, sir, that a woman immersed in business can bestow that care and attention upon her family which are so necessary to the comfort and even the existence of home as we now consider it? No, sir, this word "home" would in that case lose its charm by losing its significancy; it would soon cease to express the ideas now attached to it. What man linked to a woman who, instead of performing the duties which are now considered to belong to the wife, and which to the honor of American wives, be it said, they cheerfully perform, was herself engaged in trade or in attention to her separate interests, would long regard his family as a refuge from the cares of the world and a place where he might find solace in affliction. With such a wife he would seek for the consolation which home now affords in vain.

In my opinion, Mr. Chairman, the fact that gross frauds will be perpetrated by dishonest men by means of this provision constitutes strong objection to it. It will be utterly impossible so to separate the property of the wife from that of her husband, in cases where she herself manages it, as to prevent it wholly from intermingling with his. This circumstance can be taken advantage of by those who wish

to conceal their property from their creditors and will lead to the grossest frauds.

I am aware, sir, of the feeling appealed to by those who advocate the principle contained in this clause of the constitution. They claim that they seek to protect woman in the enjoyment of her rights, and refer to instances in which the rule of law as it now exists produces injustice; this is undoubtedly true of the present law and will be of any law that can be enacted, but we must look to general results and disregard particular instances as they constitute the exception and not the rule.

It has been said and most truly said that in order to make this provision operative for the wife's benefit she must be clothed with the power of bringing actions in our courts against all persons who interfere with her property, her husband included. I know that this proposition has been denied; it had been said that the law, so far as regards the personal control of the wife by her husband, should remain after the adoption of the constitution as it now is. But a moment's reflection must satisfy all that this cannot be the case. Suppose the husband has obtained possession of the separate property of the wife and refuses to give it up. In this case there can be no way contrived by which she can recover it but by giving her the power to sue him; and it will make no difference if the law allows her to sue the name of another, as is the case now with minors. She will be the real plaintiff, and her legal contest with her husband will engender all the bad passions which we now see manifested by parties litigant in our courts; and yet it seems that the friends of the constitution suppose that after the contest shall be over the husband and wife are to continue to live together and discharge their appropriate duties. Sir, can there be any peace in that household? Can there be any love, any true affection between persons in this situation? No sir, no; the family will at once be broken up whenever the wife attempts to enforce her right to her property against the husband. Nor would the consequences be different if the wife should ever withhold her property from the husband in case he needed it. Let us suppose that a man in business required a certain amount of money to meet some pressing exigency, and he knowing that his wife had it should apply to her for it and be refused—can there be a doubt of the effect of this refusal upon him, or upon his relations with his wife? Sir, the marriage contract would no longer exist except in name; and there can be no way contrived to enable the wife to withhold her property from her husband when she has the

personal control of it which does not presuppose the annihilation of the marriage contract itself.

Upon the whole, Mr. Chairman, I cannot think it proper to change the law in relation to this subject. I cannot think it best to incorporate into the marriage contract a principle at war with all true affection, and which by weakening the force and obligation of the contract tends to degrade woman. She does not ask it at our hands; she is satisfied with the law as it is, and has been for centuries. Sir, the fact that the law on this subject has remained so long unchanged is a most remarkable one. In the language of Mr. O'Connor in the New York convention, "revolution after revolution has swept over the home of married love here and in the mother country; forms of government have changed with Protean versatility, but the domestic fireside has remained untouched. Woman, as wife or mother, has known no change of the law which fixes her domestic character and guides her devoted love. She has as yet known no debasing pecuniary interest apart from the prosperity of her husband. His wealth has been her wealth, his prosperity her pride, her only source of power or distinction." Sir, long may the law remain as it is, and distant, far distant, be the day when woman shall cease to be what we now behold her.

Mr. Chairman, there is one other subject to which I wish to call your attention, and that is the exemption of real estate from forced sale, contained in the constitution. I look upon this as one of the most important provisions of the instrument, and one which will most deeply disgrace us in the eyes of the world, if the constitution should be adopted. It appears to me that no man who loves justice, no man indeed who does not love fraud and injustice, can be in favor of this principle. It has been said by many who oppose the constitution that they are in favor of the "principle" of exemptions. I, too, sir, am in favor of exemption laws of a certain kind but am very free to say that I am totally opposed to all exemptions like this and to the "principle" of such exemptions. Mr. Chairman, there are some men in the country of exalted character and ability who entertain the belief that there should be no such thing as separate property in land; looking upon the earth as the gift of the Creator to the whole human race they conceive that each man has a natural right to the use of enough of it to provide for his sustenance and support, that this right is inalienable, that it cannot be forfeited when he is in a condition to enjoy it. Sir, I am not about to combat this principle; as a theoretical truth applied to men in a primitive state it is most undoubtedly correct; but it is entirely



incompatible with the present condition of society. It has been found necessary to secure to men the avails of their own industry and to protect the accumulations of labor, whatever form those accumulations assume, whether land or anything else. It has been demonstrated that men will not labor efficiently unless they can enjoy what their labor produces, by the constant failures which have attended all attempts to establish societies on a different principle. It is a truth not very gratifying to us, but not the less a truth, that men will not labor except from selfish motives; they will not labor and take what their labor produces and throw it into common stock. We might wish that men were different, but our laws must be adapted to them as we find them. Indeed, sir, the constitution recognizes no such principle; it recognizes the doctrine that men may own land, may buy and sell it as they do other property, may contract debts and the consequent obligation to pay them. I have made these observations, sir, because I have observed that men when discussing this subject frequently refer to the natural right which all men have in land as though the constitution changed the general character of our laws on the subject, and as though land was not still to be considered as property.

I suppose, Mr. Chairman, that it is an admitted truth that a contract owes no part of its obligation to human laws. If two men should make a contract in a country over which human laws had never been extended, by which one of them should engage to do an act in consideration of something which he then received from the other the obligation to perform the act which he had engaged to perform would be perfect, and he could not escape from the obligation of performing it if performance were possible. All that human laws could do in the case supposed would be to enforce the moral obligation resting on the person who made the engagement, and every code of laws by which the conduct of men in relation to contracts or property should be regulated which did not enforce it would be most grossly deficient, would fail to accomplish one of the main objects which men have in view when they enter into civil society. Accordingly, the laws of all countries, civilized and savage, do this; in our country courts of equity in cases where it is possible will enforce the contract according to the very letter; if a man has engaged to convey land fairly, the court will compel him to do the precise act which he has engaged to do, and in cases when a specific performance of the contract cannot from its nature be had, the courts of law will, when it has been broken, award against the person who violates the contract a sum of money supposed to be

sufficient to compensate for the loss sustained by its violation and enforce its judgment by selling enough of his property to raise the sum. This in theory accomplishes equal and exact justice.

But certain articles of property which all men possess are so necessary to their comfortable existence as by the laws of almost all countries to be made exempt from seizure and sale to satisfy the claims of creditors. It is manifest that the articles exempted should be necessities, not those which it is convenient for a man to own, for to articles exempted on that account there could be no limit fixed. There is no article of property which a man has about him but what may be said to be of the latter description, and hence the necessity of confining the exemption to those articles of property which are necessary for the comfortable subsistence of a man and his family; confined to this limit, the policy of exemption laws is humane and just, but when you go beyond it I know of no place to stop. I certainly can see no reason why forty acres of land of the value of one thousand dollars should be the limit, which would not apply as well to eighty or one hundred acres. Mr. Chairman, I have now stated the reason why I consider that the provision under consideration will inflict deep disgrace upon the state should the constitution be adopted. It is because when a man makes a promise to pay money and has the ability to do it without distressing himself or his family there is a moral obligation resting on him to do it, which legislation cannot remove, and which laws should enforce.

The exemption of real estate from sale or execution is confined to cases where the debt is founded upon or grows out of a contract, and yet it will be difficult to prove that the obligation to pay for a wrong done is any greater than to pay a debt growing out of a contract. Let me suppose a case. Suppose a man is seen to take secretly a dollar from the pocket of another; in that case we should all say that the dollar should be refunded and the man punished for the theft. But suppose he borrows it upon a promise of repayment. Is not the obligation to return it when he has the ability, without distressing himself or his family, as perfect as it was in the former instance? And is not the person who under such circumstances refuses to do it guilty of a gross violation of duty? Again, a man borrows a thousand dollars of his friend and with it purchases a house and lot in town or forty acres in the country—and it is all the visible property he possesses; our laws, if the constitution is adopted, will protect him in the ownership and enjoyment of it against his creditors. I ask you, Mr. Chairman, what you would think—I would ask a friend of the constitution, if there was one here, what he

would think—of the conduct of this man if he should avail himself of this law and refuse to repay his friend? Sir, there would be but one response to this question to whomscever it might be put. All would say that such conduct was most dishonest and knavish. I ask you then, sir, what you think—I would ask a friend of the constitution, if there was one present, what he would think—of a law which authorizes—nay, which justifies—such conduct. Does not this constitution virtually say to every rogue in the land, If you can induce your friend to loan you money, you shall be enabled to cheat him out of it? Yes, sir, such is the morality of this instrument; such is the moral beauty which shines forth in it. Sir, many who are the strenuous advocates of this constitution denounce the late United States bankrupt law in unmeasured terms, and yet that law did not discharge a man from his debts until he had surrendered all his property to his creditors, while this provision enables a man to own his property and live in plenty, while he sets his creditors at defiance.

Mr. Chairman, this constitution has been called the poor man's constitution, and called so mainly because it contains this provision. Sir, it is the greatest enemy to the poor man, in the shape of law, that was ever enacted. I do not mean collaterally by depriving him of credit, but directly; its direct action is against him; he never can feel its effects beneficially—whenever it affects his interests, it will affect them injuriously. A moment's reflection shows this. It is very certain that he can never derive any benefit from it, for though it is not easy to tell where poverty ends and competence begins it is certain that the person who owns a thousand dollars' worth of real estate is not poor, and it is equally certain that our exemption law now exempts all the property which the poor man owns, so that whenever the poor man feels the effect of this provision he will be the creditor of one of these forty-acre lords and be cheated out of his debts. Cases will be constantly occurring where the really poor will be creditors of these "thousand dollar men," and the debt will generally be due for labor, and while there is not a person in the whole land but what would condemn the conduct of the man who should refuse to pay a "poor man" under such circumstances, by a strange perversion of language the law which enables the comparatively rich man to cheat the poor one out of his debts is called the poor man's constitution.

A few words, Mr. Chairman, in relation to another topic, and I have done. It is said that however faulty this instrument is, it is better to adopt it and amend it afterwards than to call another



convention. Sir, this seems to me to be strange language. It is to be remembered that as yet this constitution has no force, no existence, and can have none until the people breathe into it the breath of life. We in this instance make the law; our fiat must give it life and vitality if it ever has them. And it seems to me that we should be acting a most senseless part if we should vote for the adoption of an instrument like this merely because we could afterwards alter or repeal it. We never certainly should forgive our representatives in the legislature, if they should vote for a law for any such reason; and I do not believe that the people of the territory will be guilty of any such absurdity.

I know, Mr. Chairman and gentlemen, and I am most happy to know that I have been performing a work of supererogation. I am aware that we all concur in opinion on this subject, but I did not on that account feel at liberty to withhold my sentiments in relation to it, when called upon by you for the expression of them.

#### AN ARGUMENT AGAINST THE CONSTITUTION

[March 30, 1847]

Voters of Wisconsin! One week from today is the day on which you are called to rally to the conflict. Have you considered the magnitude of the call and the fearful responsibility which rests upon you? In conformity with an expressed wish of yours, a convention met last fall to form a basis—a grand platform—on which the fair and beautiful Wisconsin is to be placed and take her place as a bright luminary in the constellation of thirty states. That instrument is before you, and has been for several months past, for your consideration. We presume every voter has seen, read, and duly considered its merits. Discussions have been had in almost every school district and neighborhood by both the friends and opposers of the constitution. The friends of that instrument have left no means untried. No stones have remained unturned which could be turned so as to hide its very objectionable features; no polish has been spared which will tend to brighten the dimmer spots; and no sophistry withheld which would tend to give the “thing” the appearance at least of being a meritorious instrument worthy of the approval of the enlightened and intelligent people of Wisconsin. And they have even gone so far as to ask its adoption at your hands on the ground of expediency. What an absurdity! What an insult upon enlightened intelligence! What a mockery of democratic republican principles! That a people like this should be driven to the fearful

precedent of sanctioning a constitutional law, the foundation of all subsequent law—the anchor, the ballast, and the very life blood of a free and independent people—on the ground of expediency! We fancy we hear you burst forth in one united voice that makes the welkin ring: “Away with such contemptible sophistry! Away with such contemptible, pusillanimous spirits as use it! Away, ye office-seeking, power-loving horde—ye fain would deceive us! But you can’t come it! You have sounded the trumpet of party in our ears in vain! You have vainly endeavored to hide its deformity under the garb of democracy! Unholy mimicry! A wolf in sheep’s clothing! But you did not hide the formidable tusks and the cloven foot!”

It cannot be denied but what the friends of the constitution, or a considerable portion of them, have urged its adoption on party grounds. We, as opposers, have not, nor have any opposed it on such grounds, but on the contrary have endeavored to look at it with an impartial eye, to exhibit and lay before our readers plain, unvarnished truth; and while we have stood faithfully to our post we have felt a conscious satisfaction that we were not only seconded by our Whig friends but by a large and respectable number of our Democratic friends. We are happy to see on so all-important a question as this the rigid rules of party laid aside. In our appeal we say, “Whigs and Democrats, have on your armour. Stand up to your posts and do battle for your country manfully. Your country’s interests, your own interests, and the interests of your descendants are at stake, and the fearful responsibility rests upon you.” It is admitted on all hands that the constitution contains provisions which are wrong—yes, radically wrong, and even dangerous—the deleterious effects of which will not be fully matured until the rising generation shall have arrived on the stage of action. But you are told in reply that it can be easily amended. Easily amended? Would you buy a farm overrun with daisies and Canada thistles because you could dig them out? Would you trust your life and property and all on a leaky, shamy [*sic*] built steamboat because the fare was one dollar cheaper? A man that would do this would be considered by all sensible men as a fit subject for a lunatic asylum.

We have said that its effects if adopted will tell on future generations. Hark ye one moment. With what pleasurable emotions do you look back upon the ashes of those high, heaven-born spirits who bequeathed so rich a boon as that of freedom? What bitter curses and imprecations would we have heaped upon their memories, had they tamely submitted and abandoned the cause they had

espoused and entailed upon us endless servitude to the insolent and arrogant power of Great Britain, just because it would cost them less—because the treasury was empty, and if they waited a while they would become more powerful and wealthy! The halo which now surrounds their memories would then have been supplied by the bitter cursings of an injured people. Will you by any act of yours draw down upon your memories the curse of ruined families and an injured posterity by adopting such a vice-engendering, fraud-inviting instrument, because it has the credit of having been brought forth from a Democratic convention, or for the saving of a few paltry dollars? Ye who are undecided, look around you and see who the champions of this instrument are. And whom do you behold but most of the delegates who formed the present constitution, and a few noisy weathercocks, who are blown from side to side of the political arena by every popular breeze? Will you rally under such colors and leaders? Has it come to this, that the slippery tongues of the noisy gabblers in the convention must be let loose to beat down the rough and uncouth features their ignorance and their ultra and absurd notions were instrumental in incorporating into the constitution? And also to hurl their tirades of abuse at old and tried Democrats who have the manly independence to burst the party trammels and speak out in condemnation of this disreputable constitution? What would be thought of a minister who should go about asking his hearers how they liked his sermon, or an editor his subscribers what they thought of his editorial? Vanity, imbecility, and weakness would be trumpeted in their ears from every corner of the street. And yet the members of the late convention have the unblushing impudence to mount the stump and ask the people to sanction their dirty work.

Farmers of Wisconsin, will you give your sanction to such an instrument, which has hardly the dim shadow of merit—which will directly tend to depreciate the value of your produce, retard the progress of all public improvements, turn the tide of emigration in another direction, thus depriving the territory of a vast amount of wealth which she would gain from that source?

Laborers and mechanics, your interest is at stake; you are not less affected by the same influence. When the country is prosperous, you are so, too. Be not beguiled by the smooth words of the selfish office seekers. You need no friendly hint to convince you that their pretended sympathy for the poor is all humbug, and, like the constitution, when they get an opportunity their discriminations are in favor of the rich and against the poor. Ye friends of honesty and



good morals, let it not be said that Wisconsin has by her constitutional law made herself an asylum for rogues to flee to, to avoid their injured creditors. We say to you, let not your vote assist to put a blot on her fair fame. Let not Wisconsin come into the Union holding in her hand a banner on which is inscribed vice, fraud, and dishonor.

And now in conclusion, freemen of Wisconsin, of whatever party, name, or occupation, as you love your own interest, your country, your peaceful, quiet homes, rally, rally to the polls on next Tuesday. Bring with you your friends and neighbors who are willing to do battle against the constitution; let no business hinder you; let not storm nor mud prevent your appearance at the ballot box. Do not say "My vote won't effect much; it is but one; therefore I will stay at home and make fence." That is abusing your right as a freeman and neglecting an imperative duty. Your neglecting to vote may carry the constitution, thus entailing all its evil consequences upon us. Then who is to blame? Your vote may defeat the "thing"; many a man has been elected by only one vote. Then rally to the contest. Blow the trumpet with deafening blasts into the ears of the political demagogues, which will make them tremble with fear. Point them to the handwriting on the wall. Put your shoulder to the wheel, and let us roll this contemptible document into the gulf of oblivion, thus teaching rampant ultraists that when they legislate it must be for the people and not for themselves.

#### IEWS OF DANE COUNTY WHIGS EXPLAINED

[March 30, 1847]

MADISON, March 29, 1847

MR. W. W. WYMAN—

DEAR SIR: My attention has several times been called to a series of resolutions put forth by the Whigs of Dane County (embracing a declaration of principles) at their mass meeting, held for the purpose of nominating delegates to the convention to frame a state constitution, and the question triumphantly asked, "How can you as a Whig, avowing those principles, oppose the adoption of the constitution?"

This question I purpose to answer, and at the same time to correct some of the erroneous assertions made by Messrs. Bird, Blanchard & Co., in their "address to the Whigs of Dane," published in handbill form from the office of the Madison *Democrat*.

That men who have enjoyed the confidence of the generous Whigs of Dane County, who have received from them office and honor, should wilfully misrepresent their principles merely for the purpose of giving "aid and comfort" to their most violent opponents is a source of deep regret to their heretofore political associates. As a Whig, it is too great a trespass upon charity to believe them honest; that question, however, is with themselves, and I am not disposed publicly to question their apparent sincerity.

The Whigs at the mass meeting alluded to put forth the following as their first resolution:

"First. To make all officers in our government, both civil and judicial, elective directly by the people, with short tenures of office, that they may hold in constant remembrance their accountability to the people."

This of course was a declaration in favor of an elective judiciary, and as a Whig, I support the doctrine. Now we would inquire what kind of an elective judiciary does the constitution give us? It gives us but the shadow for the substance. True, ostensibly, we have an elective judiciary; but we are opposed to the rotation system—it virtually kills the principle by giving to the people a judge of their own choice but one year in five! I had just as soon have the people of the District of Columbia elect the judge for the second judicial circuit as to trust the matter to the people of the fifth circuit, to which La Pointe is attached for judicial purposes! What guaranty have the people of Dane County and the counties comprising the second circuit that the other circuits will not fasten upon them for four years an irresponsible being called a judge—elected to that office, not because he was the choice of the people, but because a party caucus gave him a nomination? The Whigs of Dane County never asked for such a system; neither will they approve of it at the dictation of any man or set of men. I might mention many defects in the system, but one will suffice: The constitution provides that the judges of the several circuit courts shall be judges of the supreme court, thus perpetuating that great error which has crept into other state constitutions, of allowing judges of circuit courts to sit in judgment upon their own decisions on the supreme bench. So much for the elective judiciary asked for by the Whigs of Dane County.

"Second. A direct and positive prohibition against the granting by the legislature of any charter for banking purposes; or the passage of any law whereby any monopoly or any special exclusive rights and privileges may be conferred for private purposes."

Such is the resolution of the Whig mass meeting upon the subject of banks. How far does it go? Not one breath beyond the question as to the policy of chartering banks. The resolution was aimed only at monopolies and chartered privileges. Upon the subject of banks the resolution is explicit and full. It speaks only of chartered banks while upon that subject and declares against them. As a Whig, and as one of the committee which presented those resolutions to the Whig mass meeting, I stand by the resolution and am willing "here and elsewhere" to maintain and defend to the extent of my ability the principle involved in it. Upon questions of a general nature, \* the people need not in my humble opinion be bound by constitutional enactment. The resolution quoted means no such thing—says no such thing. Trade should be left free and without any unnecessary restrictions. Individual enterprise should not be prohibited nor a man incarcerated in prison for taking what he pleases in exchange for his property, real or personal. We might perhaps here make the inquiry, Why was the resolution above suppressed by Messrs. Bird, Blanchard & Co.? Why was it not published? The handbill asserts that "the declaration was made and set forth saying in strong and emphatic language that the Whigs of Dane were pledged to use their efforts to have inserted upon the fundamental law of the state of Wisconsin a prohibition upon the legislature's chartering banks or in any way granting banking privileges."

The slightest observation will convince these gentlemen that there is no vitality in this assertion. The error they have fallen into is apparent. I leave them upon this question not only to the judgment of Whigs, but to men of all parties who despise efforts at imposition.

"Third. That there shall be secured to every person engaged in any trade, occupation, or profession the books, tools, and implements necessary for carrying on the same; to every householder his homestead; to every farmer his farm containing eighty acres of land, with its products, sufficient for the support of his family, and that his interest in the same shall not be taken from him except on particular contract of bargain and sale thereof, or for some tax imposed thereon, or for the payment of some fine or amercement against him for trespass or misdemeanor."

With this resolution before them these gentlemen have the assurance to assert that we have "just such an exemption" in the

\*NOTE—The resolution on banks refers only to chartered ones. If the people should demand a "general banking law," nothing contained in the resolution would prevent the legislature from carrying out their wishes. The doctrine, I believe, is Democratic.



constitution as the "Whigs of Dane" asked for! Where is the exemption for the person engaged in trade? Where is the exemption of books, tools, and implements necessary for carrying on the same? Ask the mechanic, ask the laborer where is the exemption for those who need it most. In the statute law? For one, Mr. Editor, I am in favor of affording the same protection by the same law to all alike. So are the "Whigs of Dane County" if the resolution above quoted means anything. To protect the man worth his \$1,000 by constitutional enactment and at the same time leave the mechanic and the laborer to the mercy of statute law is no part of the creed of the "Whigs of Dane County." An attempt to create false issues, to misrepresent their solemn declarations put forth in the face of the world will meet that judgment which perfidy richly deserves.

Had the constitution prohibited the chartering of banks and stopped there, had it given to the people the substance of an elective judiciary, had it given the exemption to all alike (notwithstanding many other salutary provisions asked for by the Whigs of Dane have been given the go-by) there would have been much of reason in appealing to them as a party to support this instrument. But even then, almost insuperable objections must arise in their minds against going for it. No one can pretend to say that the people of Wisconsin need a legislature as numerous as the constitution provides for. With a population of about a hundred and fifty thousand, according to the last census, I cannot but be convinced that a legislature numbering from sixty to one hundred and twenty is altogether too cumbersome and expensive. New York, with a population twenty times as large as ours, is not willing to incur the expense of a body so numerous and unnecessary. Our resources will not warrant the expense of so large a body; it may have suited the office-seeking propensity of political aspirants, but as one of the people I am not disposed to gratify their ardent desire to serve the people by giving my assent to it.

The constitution, too, instead of restricting the legislature, is made the subject of legislative action. Under the constitution the statute law of the state must be revised. It must be made on the start to comply with that instrument. The people will endeavor to become acquainted with the laws of the land. After having incurred the expense—say about \$10,000—in the publication of such laws, they will be entitled to stability and permanency in those matters which define their rights and protect their interests. The cry of "amendment to the constitution" is raised, and under the

heat of party excitement the proposition receives a two-thirds' vote in the legislature, and is submitted to the people, where it carries by a bare majority. Admit that the amendment is a good one—what is the effect upon community? The statute law framed under the old provision is buried in the same grave. Both go down together. The fundamental law is afloat upon the waves of popular agitation—it is made the football of party demagogues and the stepping-stone to office and its emoluments.

Communities and justices of the peace in remote sections of the country, necessarily ignorant of the regenerating process continually going on at the capital under the supervision of constitutional quacks and lawmakers, hesitate in their decisions involving the rights of parties litigant. The field is opened for endless litigation, and the learned professions reap a rich harvest. All of this, too, must be done at the proper expense of the people. It is the "sweat of their brows" which must foot the bill. Are they benefited by such an unsettled state of things? No! Permanency is what the people want; and this can never be secured unless we first start right. The same rule which applies to a private individual will hold good with communities and states. One great error in early life may forever blast the reputation and destroy hopes of reformation. An evil planted in the very heart of the fundamental law of the land will corrode and disease the whole system. It is easier to remove it now than when it becomes settled and makes up a part of the framework of our political system. Now it may be reached—tomorrow it may be out of our power. On a question involving the dearest interests of a free people too much precaution cannot be used. Wisconsin, as a territory, is prosperous. Her march has cast a colossal shadow over the world. The adoption of this constitution will have a tendency to increase or diminish her greatness—to retard or advance her prosperity. If the prostration of our credit abroad—if the derangement of our market for surplus produce—if the absence of confidence between men and communities and adverse interests created in the domestic circle are to be the fruits of its adoption, then we say in all sincerity, "Deliver us from it."

I trust that the Whigs of Dane County will review these resolutions. It will serve to remind them that it is not too late to come to their rescue. The adoption of this constitution throws away all hope of engrafting them upon the fundamental law of the land until the period arrives for framing a new constitution. What our chance for success will be ten years hence no human forecast can divine. Now is the time for action. Let the Whigs move gallantly

onward in one unbroken phalanx, and success will yet vindicate the wisdom of their principles. "Eternal justice forever holds her balance true and laughs at all puny attempts to evade her unerring decisions." Our principles need only be universally known to be universally sustained. Let them stand upon their merit, without reference to name or locality, and they are claimed as the embodiment of liberality and justice. Then, at this crisis, and at this favorable moment, let us not be content with the shadow in lieu of the substance.

Mr. Editor, the only excuse I have to offer for thus trespassing upon your time and patience is that as a Whig and as a humble member of the committee which presented the above resolutions to the Whig mass meeting I could not silently assent to see them perverted and misrepresented. That it should be done by professed Whigs who participated in the meeting is passing strange. But the indirect charge of "inconsistency" upon the Whigs of Dane County for opposing the constitution will fall harmlessly at their feet. Had the resolutions been published with the address—had the antidote accompanied the poison—this trespass upon your patience would have been unnecessary.

If Whigs support the constitution from principle, let them do so unmolested. It is a right every man enjoys, and no one as I view the matter has a right to question his motive. So with those who oppose it. Freedom of opinion is every man's birthright. I do not regard the question as to the constitution strictly of a party nature. In comparison with the great interests involved, party sinks to a mere dwarf. It is for this that we should oppose every effort which has a tendency to arouse party feelings upon this the most important question which will ever be submitted to a free people. It is for this that we should fully and candidly discuss this instrument, and guided by our own unbiased judgment vote for or against the adoption of the constitution.

Respectfully yours,

WM. WELCH

#### TACTICS OF DANE COUNTY DEMOCRACY DENOUNCED

[March 30, 1847]

MADISON, March 27, 1847

*To the Whigs of Dane County:*

"The mountain has labored and brought forth" a bird's nest. It has been the custom of all political parties of this country from



the foundation of its government to the present time to discuss momentous questions relating to the welfare of the common people dispassionately, coolly, and with all candor. From new doctrines set forth in this progressive age we are led to suspect that deceit and fraud must be practiced upon the people. Therefore, the Tadpole party, in favor of the constitution now before the people, have called upon some "loose screws" that have been attached to our party to assist them in their drowning cause. It appears from a document lately issued they have met with their supple tools. We have delicacy in referring to this transaction, and would not—we would let it die its natural death; and trust that the people would believe that the sentiments ushered forth under that address are not the sentiments of the whole or any material part of the Whig party. This publication would not deserve even a passing notice were it not for the fact that two individuals claiming to be Whigs—who have been honored with nominations for important offices by the Whig party—have allowed their names to be issued in connection with it. That the gentlemen alluded to wrote the article or that they were the instigators of it no one pretends to assert. It had its origin in quite a different quarter; printed under the supervision of the *Wisconsin Democrat*, we have good reason for coming to the conclusion that it emanated from the pen of the ex United States Attorney, designated by his now Democratic brethren as a "late Federal Whig," who is believed and acknowledged to be the confidential adviser and warm personal friend of the present Whig incumbent of the office of register of deeds. We do not deem it becoming to us as Whigs to be catechized by such men as I. W. Bird, S. F. Blanchard, or any other men who aspire to be the leaders of our party and are willing to sell themselves for their own self-aggrandizement in the shape of offices. We do not consider it necessary, but will merely refer to the reasons which are urged as an excuse for the publication of their beautiful, consistent inconsistency. They allege that the Old Hunker branch of the Loco party are decidedly opposed to the adoption of the constitution—ergo, we, the Whigs, must go for it—not stating that the Tadpole party, who claim to be the regular anti-Whig party, are ready to read every Democrat into the Whig party who disbelieves in their progressive creed. It is not necessary (if time would admit) for us to set forth the reasons of our opposition to this constitution now before us, but would only refer the candid and thinking Whigs to our mass meeting held for nominating candidates to the convention. If the principles there established by us as Whigs had been

embodied in the constitution, we would show no opposition, but would join hand in hand with all honest men and adopt the constitution! It is natural to suppose that all Whigs understand their principles—understand their wants and wishes. Then why these useless interrogatories—why these arguments and sympathies—at this late day, from such men as Sutherland, Dow, Blanchard, Bird & Co.? Is it not enough to know that we have the constitution before us? Can we not understand it? Or is it necessary for those magnificent stars in the political firmament to enlighten us? “Would you, were it in your power, destroy any one of the features of the constitution?” they ask us. What a question from such a source! A constitution made for politicians, bankrupts, and knaves, if it were hydraheaded, we would attempt to destroy; and a constitution framed as this is, if all the united wisdom of the imps of darkness assisted by the honorable members of the late convention should try to force it down us, we would still “pick our flint,” and try to stop its progress. But we will say to “the people of Dane County” that the time is coming and fast approaching for us to fight the good fight of faith; let us buckle on our armour and stand by our rights against this constitution. Do not be influenced by such men as are willing to attempt to break our ranks; hold fast to all that is good. We do not wish dictation from Jimmy Dow or Wash Bird, neither from Sidney F. Blanchard, Pyncheon & Co.; but will show the laborers for this grand abortion of a fundamental law that we know our rights and dare maintain them, and will go for our God, our country, and against this constitution.

THE WHIGS OF MADISON

SELECTIONS FROM THE RACINE *ADVOCATE*

## THE CONSTITUTION—NO. 1

[January 6, 1847]

We give today the constitution for the future state of Wisconsin, and we shall at some future period notice the articles it contains more in detail. It will be sufficient at present to give a general opinion on the whole, which we proceed to do.

A new state labors under great difficulties in the formation of a constitution because it has but little experience to be warned by, and because its inhabitants composed of emigrants from many states have all of them certain prejudices they wish to gratify and certain customs which they wish to see retained. Another and a greater difficulty is in composing a convention. So many things are to be settled by a constitution that with the exception of a few things prominently before the people the members of the convention are unable to ascertain precisely what are the wishes of the majority, and in such cases the members are too apt to make this necessary ignorance an excuse for pretended ignorance whenever their views may differ from those they suspect to be the views of their constituents.

Notwithstanding these misfortunes we think our constitution is emphatically a good one and will receive from the people a large majority of the votes cast. We, and we suppose every other man, would wish to see some alterations, but that must ever be the case or else there would be little need of constitutions. Amendments will doubtless be made, the more particularly as the provision for allowing them is liberal. That some dissatisfaction exists we readily admit, but we do not think there is much of it out of villages, and that if it is so proves to us pretty conclusively that the constitution is made as it ought to be principally for what is and must be the great majority, the rural population of the state.

On the subject of internal improvements, a most important one, almost all agree that the constitution is what it ought to be. On the subject of banks, notwithstanding a bitter but not strong opposition to the sixth section, almost all true Democrats (all uninterested) and many Whigs will agree with the majority of the convention. On the article concerning the rights of married women



and the exemption of certain property from forced sale we think a vast majority of the rural population and a great number of inhabitants of villages will be found to consider the plan as a good one. Indeed we think that article will add great strength to the constitution, and we look upon it as the opening glimpse of a great truth destined to make men better, more stable, more equal, and to prevent uncertain and feverish speculations and grumbling.

It is to be remembered that no constitution could in all probability have been provided in our present state that would not have required amendment in a few years, as we are growing so rapidly and developing so many new resources, that their new wants must of necessity be cared for either by amendments or by a new convention.

Indeed we think that a few years will work great changes in the constitutions of many of the states and that new and beneficial provisions will be introduced that we shall be anxious to share. In consequence of this we are satisfied with the constitution as it is for the present, and we are also satisfied that it is as good as we could hope for, and a better one than we could now hope to obtain on a second trial.

#### SINGLE DISTRICT SYSTEM

[January 13, 1847]

It would certainly have been advisable, if possible, to have made our new state follow the example of New York and elect by single districts to the legislature; but under the circumstances of the case our convention could not have effected that object. The government of a great portion of the territory is by counties and not by towns, and in that point the late census was of course thus taken. In consequence of this the convention had no guides by which it could lay off single districts in many of those counties, and some of them would have been entitled to several members of the house of assembly. This was one reason why the plan was not urged with greater force.

The advantages of the single district system are very numerous, and among them the following will be fully appreciated by the people generally. In the first place, the people are brought nearer to their representative. He must be known to a great majority of them, and he must also know many. They will be well aware of what are his opinions upon most cases, and he will know their opinions so well that it will prevent to a very great extent his misrepresenting their wishes.

In the second place, the plan prevents all or almost all gerrymandering by legislatures and gives to the minority as near as possible the exact representation it ought to have in one house at least. This is a matter we consider of great importance to the welfare of a state, as it will give to the minority a consideration it often loses where a general county system prevails.

The state of New York has long presented a fair view of the wrongs of this system to both parties. In the city of New York a Democratic majority has almost always prevailed, and the consequence has been that the Whig influence of New York has been nothing in the legislature although there is a large Whig population there with a great general influence for other purposes. On the other hand, the eighth senate district of the state has for years been strongly Whig; and sending no Democrats to the assembly, the interests of that part of the state have not been nearly so well cared for as they will be hereafter. And this is and must be the case whatever party rules under the old system, while under the new all large sections of the country will at least have something of a voice in the councils of the dominant party, whichever that party may be.

A third advantage of this system is its equality. Large cities or large counties cannot come on the floor of the house often with one unbroken front and ride down the smaller counties, nor will there be such well-drilled cohorts looking up to one leader who wields the whole power of the delegation and offers the vote of the whole for any logrolling policy he may deem it advisable to coax or to threaten it to. The strength of cities is thus overthrown, but it is as a general thing only their strength to do evil. The country wants but little, the cities much; and yet the cities have the advantage because their delegates are more untrammelled from the impossibility of there being the same intimacy between the inhabitants and the members they choose to represent them as there is in the country.

Another advantage of the district system is that it prevents large sections of country from keeping political power in the same hands for such long periods, and keeping it by ill means. We mean by "from keeping power," always holding in the ranks those men who are without real political feeling but always go with the party they believe the strongest.

Perhaps it will be impossible for Wisconsin to embrace the district system before the next United States census, but we hope at that time, as the matter is left to the legislature, that it will be adopted. We hope this not because our own county is to be an

especial gainer, but because it will be just towards the whole state, and because the system is essentially Democratic.

Many perhaps have been somewhat disappointed that the constitution did not prescribe this mode of election, but the objection first mentioned was insuperable for one year at least, and as it would be scarcely worth while to take a census before 1850 it was probably the wisest mode to leave the whole matter in the hands of the legislature, which will doubtless be instructed at the proper time to have the district system made the system for future elections.

Since writing the above we have met the following article from a paper that ought to speak with a little more regard to truth. The question in our convention never was between Whigs and Democrats, nor was there a question in any shape about Whig influence or Democratic influence. The difficulties were evident to all and were for the present insurmountable:

Wisconsin Convention—Single Districts. The convention now in session to form a state constitution has rejected a proposition to divide the state into single representative districts. The main argument against the adoption of this Democratic measure was that it would give the Whigs a few additional members of the legislature! This is Locofocoism. Professing democracy, it never yields its grasp upon power until the popular voice becomes too strong to be resisted, and then it makes a virtue of necessity. For twenty years such has been its course in this state. If the Whigs of Wisconsin persevere, as we know they will, they will yet triumph on this question.—Rochester *Democrat*.

As, however, this was the paper that gave the information of the rejection of our constitution before it had been formed, its ignorance of all our affairs, politics inclusive, may perhaps be excused.

## THE SIXTH SECTION

[January 20, 1847]

The sixth section of the article on banks has attracted quite as much notice in this territory as anything that has emanated from the late convention, and has met hostility from quarters where it ought not to have been expected—we mean from those who profess themselves pure Democrats and thorough antibank men. That those who are in favor of banks should dislike this section was to have been expected; but how any man who is opposed to those institutions can desire to have this section stricken out we cannot



comprehend. We are aware that many would have preferred that at the beginning the restriction should have been confined to bills of a lower amount and that it should have been gradually increased to larger bills. To us this admission seems to be quite sufficient. When we are told by men that they admit a principle and only wish to modify it for the sake of convenience, the argument is at an end; and we can only say that as no man can fix a degree of convenience for all, so they ought to see that if they have truly stated their reasons, the only difference is one that must exist as long as the least sacrifice is made to expediency.

To admit that bank bills from other states ought to be partially driven out and gradually driven out of the country is to admit the great principle. After that to quarrel with a constitution because that great principle is not reduced to practice in the precise manner or at the precise time wished by certain persons seems to us an over particularity that could not fail to find fault with and oppose any constitution unless made exactly in accordance with the views of the individual to vote upon it.

We are well aware that many insist upon it, that the provision of the article will not be obeyed and cannot be enforced. This is mere declaration and cannot be known until tried, but if it is so, could the provisions of the article have been better enforced had it only restricted from circulation one dollar bills? We see no reason why it should, and if it could not, then their objection is either futile or hypocritical. They either go too far or not far enough. One thing is certain, that bills of less denomination than one dollar have been driven out of circulation, although when the very small bills were abundant, the same arguments might have been used, the same necessities claimed, and the same evils prophesied from their abatement.

It is true that there may be some difficulty in driving out of the country at a moment's warning all small notes, but here we have some little time to do it in, and if the legislature makes efficient laws, we have no doubt the work can be done; if it cannot, we shall be forced to amend the constitution, and the opposers of the section will have their own way. Experiments are and must be tried in every constitution, and if this one fails, there is no difficulty in abandoning it, for if it works as injuriously to the interests of the country as its opponents predict, the country will rise to a man and abandon it.

To us, however, it seems that the fear is it will work too well for the majority of the people and will not be abandoned. We believe

that the law will produce the same currency here that deep suffering has produced in another portion of the territory and that many who oppose it fear rather the success than the failure of the experiment.

If we must have bank paper, let us rather have paper of our own banks than those of far-off institutions, without the control of our own laws, without even the possibility of our knowing how unsafe they are—for to talk of safety and bank paper together seems to us ridiculous—or how absolutely fraudulent they may be. If we cannot avoid bank paper as a currency, let us charter banks. If we must endure all the evils of this curse, let us share some of its benefits. If we must be bankites, let us be honest and open ones; but let us go at it with a full understanding that we cannot avoid it, and with a thorough conviction that we at least have endeavored to ward off so fearful a cause of profligacy, but have been unable.

To avoid banks and encourage bank paper savors to us very much of declaiming against robbery and keeping a junk-shop for the reception of stolen things. To call ourselves antibank men and yet to invite bank paper from abroad seems like calling ourselves the true friends of the country and yet hanging out lights to assist the enemy to conquer it.

We have no fear that this section will prove unpopular out of villages, for we are satisfied that the territory is truly antibank. But we do fear that the opposition to it will injure some of the opposers who in their mad earnestness will find they have gone further than they meant to and have been driven from their own tenets by an opposition to what will turn out for good.

Business men, or rather some business men, fear that this section will derange their affairs. We think they are mistaken; and we think they are so through the influences of a business education. Men who have for years forever used paper cannot well see how they are to get along without it, and yet they may see that in one portion of this territory this is done, and without injury. It may be, however, that we are mistaken in this, and the merchants may be put to inconvenience; but if we are we do not think that any other class can fail to be benefited by it, and therefore justice requires that the benefit of the most should command the experiment to be made.

We are also well satisfied that the article is popular with a large majority in the territory; and if the opposition emanates principally—as we are convinced it does—from villages, the people of the country should be careful how they allow their opinions to be changed by the only class of people who seem to have an especial

interest in keeping bank paper afloat, even while they join in the cry against the banks from which this paper emanates as corrupt and corrupting, and while they are ready to refuse a foothold to the manufacturer of injuries, yet court the admission of his manufactures.

THE CONSTITUTION—NO. 2

[January 27, 1847]

In our political system all questions of public policy are referred directly or indirectly to the ultima ratio of public opinion and by the judgment of the general voice must stand or fall in the end. To confess that this great democratic result is far more often produced in our practice by indirect than by direct agency is only to admit that our system is yet far short of the perfection at which it aims, and that, much as has been done already, far more yet remains to be done to restore to man in the social state the full rights of free agency with which he was endowed by his Creator, and which have been from time to time throughout all history usurped by those who received authority as the servants and used it as the masters of their race.

The principle of man's right to govern himself was established by the fathers of our system, and none in our country are now bold enough to question it. The difficulty and the duty of this age—and it may be of many succeeding ages—is to carry that principle into full and perfect practice, a problem of vast difficulty, to be attained only in unremitting and progressive ameliorations of our political system, constantly aiming at and steadily approaching the great Democratic end—a pure system of self-government—in which all questions of government shall be determined directly and certainly by the just will of the governed.

Such has been the history of the past, and such is the destiny of the future—no standing still, constant experiment, constant progress. So far we can only boast of an approximation to self-government. In few things does the will of the people act directly upon public affairs; and in none of these few is the dependence of public measures upon the public will so direct as in the framing of our organic law. As our municipal laws are framed in our present practice, the power in the first instance is absolute in the legislature; and if there misrepresented, it is only by the subsequent reaction of public opinion on the public servants that the will of the people can become the law of the land.



But the great fundamental law, the constitution, can come into existence only by the direct affirmative voice of the people. They must, it is true, trust this work also in the first instance to the hands of their servants; but that work can have no vitality until adopted by their suffrages. So it may yet be with all law, when men grow less timid of experiment and less indolent of progress; but that time is not yet.

To the performance of this the greatest and truest act of self-government yet adopted into our system the people of this territory are now called. It well becomes the dignity of a free people to exercise this right in calmness and grave deliberation. Politicians may scold and speculators may inveigh; it so happens that the interests of either class are not always identical with those of the people; and it so happens that a constitution should be for the people and not for those who exist on their favor or their necessities. The people will so regard it and will doubtless carefully and gravely scan the draft submitted to them for their adoption or rejection; and regardless of the interests or prejudices of isolated classes among them will adopt or reject as it may seem to them worthy of their dignity and suited to their interests.

For reasons which will be presently assigned there is no approach to unanimity even amongst the great body of people themselves upon the merits of the constitution which has been submitted to them by the convention of their delegates; and this instrument has become the subject of a great deal of discussion. This discussion can not fail of producing good, whatever may be the fate of the constitution; but a correct understanding of the various provisions of that instrument, their policy and their tendency, is essential to any good result; and so far there certainly appears to be a great deal of misrepresentation and misapprehension. The constitution has been a very short time before the people, who have yet had little opportunity of investigating it; while those who oppose it (and who by the way very generally indicated a predisposition to oppose any constitution which would come from a Democratic source, before a single provision of that instrument had been adopted) deal more in misrepresentation than in exposition, in denunciation than in argument. But the constitution will become better known; misrepresentations will become harmless, abuse will be unheard, and whatever be the good or the evil of the constitution, the discussion fairly conducted will of itself produce excellent results.

In this discussion the writer proposes to take some part. Having enjoyed the advantage of listening to most of the discussions in the

convention itself on the various provisions submitted to it he thinks he will be enabled to make a fair exposition of the scope and policy of the various articles in the constitution; and with the permission of the editor he purposes to occupy in this task some space in this paper for a few weeks.

As has been said, the people are far from being unanimous on this subject. There is a restraining adherence to old systems, a reluctance of new experiments, a political conservatism of opinion to be found in the minds of almost all men; and thus we find doubt and hesitation prevailing in the public mind on the eve of all great political ameliorations.

Had the convention which framed this constitution proceeded in the old beaten track; had they, instead of framing a new constitution for the new state, simply adopted an old one of some older state, giving to Wisconsin not the constitution of Wisconsin but the constitution of Pennsylvania, Ohio, or Illinois, or a patchwork of shreds gathered from all the constitutions of the Union; had there been no aim to correct old abuses, no effort to improve by the teachings of experience; then had we heard less of denunciation; then had conservatism, that timid idolatry of things as they are, not been shocked from its propriety; and the people themselves would have had less difficulty in their conclusion.

But whatever may be the character of their work the convention thought that servile imitation was not to control their labors. They thought that the new state of Wisconsin was as free to form her constitution for herself as her elder sisters had been theirs for them; that it was no condition to her admission into the Union that she should knock at the door in the secondhand garments of her elders; that while holding fast by all the good which has been tried by experience and was suited to the condition of the new state, Wisconsin was free to reject old errors and to point in her turn to new truths; that the constitution of Wisconsin would be unworthy of her if it did not aim to avail itself of all the new lights of constitutional science, whatever might be the judgment of conservatism upon the experiment.

Such is the aim of the constitution they have framed, and hence the clamor with which it is received. It is well that there is such a hesitation of experiment as has been mentioned so long as it fills its appropriate office of acting as a check on injudicious and improper change. But it becomes a vice when it assumes the character of absolute conservatism; for that resists all amelioration, all progress. If conservatism of this kind had prevailed in other days, a written

constitution would have remained an unknown thing, an untried experiment. If men argue now that no new provisions should be adopted in our constitution, or that provisions in it are wrong and unsafe simply because they are new, it is easy to imagine that the same men if they had lived half a century sooner would have urged the same arguments against the great American experiment of written constitutions. Experiments have made our country what it is; experiments alone can make it what it is destined to become. Conservatism worships the past and lives in the present; it has nothing for the future but its fears. Conservatism abhors experiments simply because they are experiments. Conservatism is of an essentially timid constitution and fears all change because it has no trust in man, no faith in his destiny. Democracy is of the past, the present, and the future; it is essentially progressive—from the past to the present—from the present to the future. Democracy lives in experiments; democracy is a creed of progress; and progress can come only by experiment. Democracy has no fear of change for itself, but with a deep trust in man and a sublime faith in his destinies it seeks out all experiments which promise to advance those destinies. Conservatism asks: Is this or that provision new? In what states has it been sanctioned? On what precedent is it founded? Democracy simply questions: Is it right?

The experiments of the constitution may be right or wrong, but neither simply because they are new. And yet all the clamor against it seems to arise exclusively from the new provisions which are to be found in it. None of its enemies seem to inquire what old errors may have been admitted, what old abuses may remain uncorrected, what bad precedents may have been followed. They seem to care nothing how far it may have wandered from the right, so that it wandered on the beaten path; but directing all their ire against whatever in it is original to itself they raise up their hands to heaven and cry, "Out upon this thing, for it is new." So has it been from the beginning and will ever be; but while conservatism scolds, democracy will calmly investigate and deliberately determine.

### THE CONSTITUTION—NO. 3

[February 3, 1847]

"The great aim of constitutional reform in our day is to restrict the legislative power" was the remark on the floor of the convention which formed the constitution, of a prominent member of that body, now a leading opponent of the constitution. In one view the remark



is undoubtedly correct. The very nature of the executive and judicial powers in our system implies limitation; and yet the patronage of the executive and the usurpations of the judiciary have been found in most of the states to be great evils. But save so far as it is restrained by constitutional provision, the legislative power is omnipotent; the restrictions of the state constitutions have all been loose and insufficient; and the abuse of this almost unlimited power has been a worse evil than the abuses of the executive and judicial, just in proportion as it has been less restricted than these.

The Constitution of the United States is often referred to as a model constitution; and subject to some grave objections so it undoubtedly is a model of its kind. But state constitutions are not of this kind. A state constitution is the organization of a sovereign power in which all the attributes of sovereignty vest, save as they are restrained by the constitution itself or surrendered by the Constitution of the United States to the general confederacy. The Constitution of the United States is a cession of special powers, under which no powers exist save such as are specially delegated by it. The end of the Constitution of the United States is to grant and of the states is to restrain the powers of government. It would be well indeed if the science of government were so advanced that the state constitutions could follow the model of that of the United States and could define all the powers to be exercised by the several departments of government, so that no exercise of power should be permitted except such as should be specially authorized by the constitution.

But this great end is at least as yet unattainable; and all that the constitution of a state can aim at in this respect is the restriction of all those powers which experience has shown to be most liable to abuse. In the early days of the constitutional experiment of America this great duty of restriction was little heeded. Except by the bill of rights, which seldom went beyond the English Magna Charta, the legislative power was little restrained. The duty of restriction is indeed in a great measure a duty to be learned from experience; and the framers of the early constitutions had no experience to teach them; subsequent constitutional conventions, for the most part, followed tamely in the beaten track, and it is only of late years that the great constitutional duty of restriction has obtained any share of the consideration which its immeasurable importance so signally demands.

That the world is too much governed, that the great evils of all political economy have arisen from excess of legislation are truths

which all will confess. That this excess of legislation, this supererogation of government has arisen from the absence of limit to the legislative power is a self-evident deduction. That evils, political and financial, have for a time overwhelmed many of the states and that these evils have arisen from the abuse of the unlimited power of legislation are facts already recorded in our political history. The public mind has of late become thoroughly aroused on this great subject; the indications of a mighty movement are not to be mistaken; and a few years will see the end in all the states in a strict constitutional definition of the several powers of government. To cut off the patronage of the executive and to restore to the people the choice of their own servants is a simple and easy duty. To free our system from the abuses and usurpations of a life tenure of the judicial power is also a duty of comparative facility. But to restrain the legislature, so as to leave in their discretion all proper and sufficient power and at the same time to strip them of all capacity of great political and economical abuse—this is indeed a duty of great difficulty, and one never yet fully discharged by any constitution of any country.

To say that in any of these great respects the constitution of Wisconsin is perfect would be to claim for it more merit than the writer is willing to allow to it. But to say that in each respect it goes farther than any constitution has gone before and is a great stride in the progress of constitutional reform is to claim for it what the writer in these papers proposes to maintain. That he has many and grave objections to this instrument he is willing to admit; but he cannot be unmindful that in the present state of political science every constitution must be a compromise of opinions. This would be true in any state. Political science is speculative and experimental in its very nature; and the minds of men will always be found infinitely various on all subjects of speculative experiment.

But here it would be extraordinary indeed if the minds of even a majority could agree in all the provisions of any constitution. Called together by our fortunes from perhaps every state in the Union and from many a fatherland beyond it, but newly associated together where there were no old habits of society, no old political system as a standard of assimilation, but each continues to wear his original habits and his original prejudices—the children of all lands and the votaries of all opinions—we are as yet rather a crowd, than a community. If in such a state of society or indeed in any state of society each man refuses the sanction of his vote to any constitution which is not, in all respects, such a one as he himself

would have framed, then can we agree upon no constitution whatever. But a reasonable man will vote for a constitution which is an approximation to his views of what a constitution ought to be; if there be in it anything very gravely objectionable to him, he will trust to the people to remedy the evil by amendment, and failing that, he will be governed by a just and rational spirit of compromise.

It is a great object to escape from our territorial vassalage; it is a great object to assume our position in the confederacy and its councils, a sovereign and potential state; and no system which we could by any possibility adopt could fail to be a happy escape from the infinite meanness of our pitiful territorial system, in which we receive our executive and judiciary like a conquered province from abroad, and have the vast choice of a couple of petty legislative committees, incapable from their numbers of representing the people, legislating as it were from hand to mouth in expectation of the change which shall blot their work forever from existence—the creatures of a Congress in which we have no voice. If we are to abide by all the accumulating evils of this wretched system until a majority amongst us can fully and entirely agree upon all the provisions of any constitution, our next convention should not meet till the millenium shall have dissipated the infinite peculiarities of human opinion. But if we can come together as men, conscious that we owe something to the opinions of our fellows, and something to the infinite difficulty of uniting even a considerable minority upon all things, and approach this constitution in a manly spirit of compromise, then may we hope soon to be the citizens of a free, self-governing state.

In this spirit, admitting many objections to the constitution, but still believing it to be in many and the greatest things by far the best of all the state constitutions, the writer approaches this discussion; and having thus in a very loose and hasty way thrown out the general views which will govern him in the consideration of the constitution he will proceed to examine its provisions in detail, following in this task the general order of the instrument itself. He will endeavor to execute the duty he has assumed, fairly, candidly, and calmly—expressing when he entertains dissent, but in all things aiming at the best exposition he can give of the policy in which each provision was framed.



## THE CONSTITUTION—No. 4

[February 10, 1847]

Passing over the Preamble, which most properly, though somewhat verbosely, acknowledges our deep debt of gratitude to the ruling Providence of Nations, which has led us forth from the accumulating chaos of transatlantic systems and planted our temporal destinies in the promised land of man's social and political regeneration, and which appropriately founds our right to erect a free sovereignty and enter the union of the states upon the great and wise Ordinance of 1787—a vast experiment in its day, whose far-seeing and just provisions have already given four great states to the Union and civil and religious liberty to millions of men—now to be consummated in the admission of the fifth state of Wisconsin, we commence our discussions with article 2, on the boundaries of the state.

On this subject there has been much discussion in the territorial legislature, in the public prints, and in the convention itself. With a trifling proviso of little moment the constitution affirms the boundaries defined by Congress in the act for our admission into the Union.

There have been three claims of boundary set up beyond the limits assigned to us by Congress. First. On the south: Raising the same question which was the subject of so much controversy between Ohio and Michigan, it has been claimed that the true southern boundary of Wisconsin under the Ordinance of 1787 is an east and west line drawn through the southerly bend of Lake Michigan. This claim, if well founded, would entitle Wisconsin to a strip of territory held by Illinois since her admission in 1818, running from the lake to the Mississippi, and about a degree in width. This right depends upon the just construction of a provision in the ordinance upon which great men have greatly differed. The fifth article of compact of the ordinance provides that there shall be formed in the northwest territory not less than three nor more than five states; then establishes the boundaries of three states, partitioning amongst them the whole territory by the names of the Western, Middle, and Eastern States—Illinois, Indiana, and Ohio; "*Provided*, however, That the boundaries of these three states shall be subject so far to be altered that, if Congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn

through the southerly bend or extreme of Lake Michigan." Congress, as is known to all, found it expedient to form the full three states; and the whole controversy depends on the construction of the sentence quoted and particularly upon the signification and force of the word "in."

It is contended on the one hand that the power to create one or two states in the country north of the given line is a power to create them of that country, implying of the whole of that country; that it was the policy of the ordinance to establish all the boundaries of the five as well as of the three states; and that the east and west line given was intended as the boundary line between the three southern and the northern states, in case Congress should create the full number of states authorized by the ordinance.

On the other hand it is argued that the power to form one or two states in the country north of the given line is simply a restriction that such one or two states shall not extend farther south than that line; that the very use of the word "in" instead of "of" affirms this construction plainly; that inasmuch as the ordinance positively provides for the creation of the three southern states, dividing in the first instance all the country amongst them, and then gives to Congress the contingent and discretionary power of forming one or two more states in the northern part of the territory, the policy of the ordinance in the event of Congress creating more than three states was to protect the boundaries of the three certain states, and not of the one or two contingent states; that this policy is rendered doubly certain by the discretion of one or two states in the north, while the south must be divided into three states; and that the obvious interpretation of this policy was to give all the states access to the great chain of northern lakes.

Such are the outlines of a controversy into which the writer does not here propose to enter further than by remarking that having long leaned towards that construction of the ordinance which affirms our claim to northern Illinois the more discussion he has heard and read the less his faith in that construction has become. Great men, as has been remarked, have differed greatly on the subject. Many eminent statesmen in and out of Congress have certainly affirmed our right; but three several times has the judiciary committee of the senate—a body whose opinions are entitled to little less weight on such a question of construction than the Supreme Court of the United States itself—unanimously and decidedly rejected such a construction of the ordinance. But admitting that we had the abstract right, it is a right as obsolete to all intents and pur-

poses as our right to Paradise; and a few considerations will readily satisfy reasonable men on the propriety of abandoning a hopeless and gainless claim.

Illinois is in possession and has been for almost thirty years. In so doubtful a case of right as it must be admitted to be the councils and the tribunals of the United States would undoubtedly and properly decide in favor of the statu quo and leave the parties where so long and undisputed a possession left them. In that possession Illinois has contracted an enormous public debt, a great proportion of which has been expended on works within this very disputed territory. It would be contrary to all faith and justice to take the territory without taking its appropriate debt, and to us the country would not be worth the cost. For thirty years the settlements of the disputed country have been made under Illinois habits and governed by Illinois laws. With these we have little sympathy; and if our right to this country were today to be admitted and the possession surrendered to us, we would find ourselves far outnumbered by its inhabitants and our new state controlled and governed by men who would not be of it in habits, policy, affection, or association, who would be the stepchildren of the state, and would make her a sort of reformed Magdalene of Finance—a second Illinois, little better than the first.

Some six or seven hundred miles in length, with an average width of only about two hundred miles, the present area of Wisconsin is estimated at 90,000 square miles. The ample sufficiency of this territory for state purposes may be readily inferred from a comparison with the area of the largest states hitherto in the Union, excluding Texas: Virginia, the largest, embraces an area of only 64,000 square miles; Missouri, 60,000; Illinois, 59,000; Georgia, 58,200; while the great state of New York counts only 46,200. An addition of territory would be an addition of difficulty to the state of Wisconsin.

Congress, for very sound and obvious reasons, never has admitted and never will admit a new state into the Union, with disputed boundaries. An obstinate affirmation of this doubtful and obsolete claim would have defeated our admission for years and perhaps led to worse consequences than the scandal, ridicule, and disgrace of the Michigan border war. After a vast expense of dignity and treasure, the claim must in the end have been abandoned as all such claims have been to the policy of Congress and the peace of the Union. In overlooking it at the outset, Wisconsin has acted in the only way in which she could act on the subject—with discretion and with dignity.



Second. On the northeast: It has been claimed that the territory on this side of Lake Michigan, granted by Congress to the state of Michigan, belongs of right to us under the ordinance. It is enough to say that the ordinance which leaves the creation of a northern state or states wholly in the discretion of Congress leaves to Congress also the discretion whether, if it should create any, it should create one or two, and in no way even hints a dividing boundary between them in case there should be two. Congress may have done an impolitic thing in giving Michigan country on the opposite side of the lake, contiguous to our territory; but, politic or impolitic, Congress in doing so performed an act clearly and plainly within its power, and of which we have no right to complain.

Third. On the northwest: The ordinance provides for not less than three nor more than five states. Wisconsin, being the fifth state, is clearly entitled to all the remainder of the old Northwest Territory not embraced within the other four states. The act of Congress for our admission limits our boundaries on the northwest by the St. Louis and St. Croix rivers and a north and south line connecting them. A reference to any map will show that this boundary excludes a considerable tract of the old Northwest Territory, lying about the headwaters of the Mississippi and extending from the junction of the Mississippi and St. Croix to the British line. To this country, as a matter of right, we are clearly entitled. Is it policy to insist upon that right?

It is understood that our delegate in Congress made much effort for a more northern boundary in that direction without any effect; and it is thence apparent that much difficulty and perhaps delay would attend our admission, if we should insist upon our full rights of territory to the British line. The policy of Congress was evident enough, and it is already acting on that policy in the bill erecting the territory of Minnesota. It is proposed eventually to create a state on the headwaters of the Mississippi, with a boundary on Lake Superior; and for this purpose the country of which we have been curtailed is added to the country on the west side of the Mississippi, north of Iowa. A casual glance at the map will be sufficient to satisfy any inquirer that the country northwest of the rivers St. Louis and St. Croix would make our state of a very inconvenient and irregular shape. Extending on the north to a much higher latitude than any other portion of Wisconsin that country is in a great degree cut off from the balance of our state by the head of Lake Superior; and in the direction of the St. Croix there intervenes an immense tract of country which will probably remain long unsettled; while on the St.

Croix and thence to St. Peters the country is already in course of rapid settlement. The argument of convenience is certainly for the proposed boundary, but far deeper considerations are involved in the question.

The area of the states of the Northwest is far more than the average of the other states, and as this country has resources to support population beyond any of the older states, it is but fair to presume that not many years hence the Northwest will be covered by as dense a population as any other section of the Union. This population in our system will be proportionably represented in the lower house of Congress; but as states only are represented in the Senate, the Northwest will always be inadequately represented in that body. Of the old Northwest Territory, dependent on the Great Lakes, embracing an area in round numbers of nearly two hundred and seventy-five thousand square miles, five states will send only ten members to the Senate. The preponderance in the Senate of one section over another is becoming every day of more obvious importance. In these views it is proposed to take from us a strip of frontier country which would long, if not always, be burdensome and inconvenient to us, and the loss of which greatly trims the irregular shape of our territory, in order to erect another lake state and give to the Northwest two additional members of the Senate. The gain of this loss is too obvious for amplification.

On all these three several points of disputed boundary, it is believed that the convention acted most wisely in adhering to the limits proposed by the act of Congress. There is however a proviso, in the shape of a mere request to Congress, to alter the boundary slightly in the northwest. There is a large settlement on the river St. Croix, of which about three-fourths are on the west bank and one-fourth on the east bank of the river. This settlement, remote from any other on the east, is divided by the proposed boundary; and at the urgent solicitation of the able delegate from that county, the convention has asked Congress to bring the boundary a few miles to the east of the St. Croix, so as to exclude the whole of the St. Croix settlement from the new state. We have only to say of this, that it would be very impolitic to leave the fixed, certain boundary of a large river for an imaginary line, and that Congress will never do so. In no other respect is the proposed alteration of the slightest consequence to us; and it must be admitted that the present division works great inconvenience to those frontier settlements.

In close connection with this subject we have article 3, on the act of Congress.

In the act for our admission Congress makes to us five propositions, granting to us: First, the school sections; second, two townships for a university; third, ten sections for public buildings; fourth, twelve salt springs, with six sections adjoining; and fifth, five per cent of the net proceeds of the land sales within the state for roads and canals.

These propositions are made on the following conditions: that the state will assent to the boundaries prescribed in the act; that she will never interfere with the primary disposal of the soil by the United States; that she will impose no tax on the lands of the United States; and that nonresidents shall not be taxed higher than residents. To all these propositions and the conditions of them the constitution assents; and on the whole subject of the boundaries and the act of Congress it may be safely said that, whatever differences of opinion may have existed among the members, the convention acted with a dignity and policy worthy of the incipient sovereignty which it represented.

#### THE CONSTITUTION—No. 5

[February 17, 1847]

Resuming our strictures we next come to the consideration of articles 4 and 5, on the executive and administrative.

The mere details of these articles which provide for the organization of the entire executive department of the government follow so nearly the old beaten track of constitutional provision that they call for little comment or explanation. Indeed their great fault, as— notwithstanding all the clamor against its new features, the greatest faults of the whole constitution—will be found in too servile an adherence to old usages. The executive power proper is vested in a governor; in case of his inability, in a lieutenant governor; and in the event of the inability of both, the secretary of state is to assume the functions of governor. In these provisions we find subjects for but two simple remarks.

In the first place, we cannot omit a word of censure upon the strict adherence to ancient forms which retains the useless incumbrance of a lieutenant governor. This office, the only duty of which during the official capacity of the governor is to preside over the senate with the power of a casting vote, and which is properly neither executive nor legislative, has always seemed to be an excrescence on the state constitutions. There certainly is no more propriety in having the speaker of one house of the legislature chosen



by the people at large than there would be the speaker of the other house; and the secretary of state, always actively conversant with all the proceedings of the executive department, is a much more proper successor to its functions in case of the inability of the governor. And, unless when required by manifest strength of reason, there is a great impropriety in intermixing the executive and legislative or judicial powers. The present is one of those trifling objections, against which it would be a vast difficulty to guard any constitution.

In the next place, we remark the very proper substitution of the secretary of state instead of the presiding officer of the senate as the successor to the executive functions in case of the inability of both governor and lieutenant governor. Although such a contingency rarely happens, yet the provision which generally prevails, that the executive duties should devolve in any case upon a legislative officer chosen by a particular legislative district, is a great incongruity. The substitution of the next executive officer by our constitution is a very proper improvement, especially as this officer is chosen in that view by the people of the state at large.

In the specification of the powers and duties of the governor we see nothing worthy of either praise or blame, where all is founded on approved precedent, except in the provision for the old veto power. In the United States government there are peculiar reasons for the veto power, which have no application to a state government. A power in the executive to check hasty and inconsiderate legislation is certainly a very desirable thing; but to render this power equivalent to the voices of two-thirds of the legislative representatives of the people is to vest in the governor a power very liable to abuse. A provision vesting in the governor the power to veto any act of the legislature, but requiring after the veto only a majority of all the members elected to each house to pass the act, notwithstanding the objections of the governor, is certainly a much safer and more democratic provision. The executive representative of the people can well and safely exercise the power of scrutiny over the doings of the legislative representatives of the people and in his sound discretion require a majority of all these to enact a law; but beyond this the power ought not to extend. Men may argue, as they do, that this old-fashioned veto is a good conservative power; so it is, but ours is not a conservative system. To say that an executive servant of the people should in matters of legislation defeat the will of a majority of the whole people, expressed by their legislative servants chosen for that precise purpose for conservative reasons, is to deny the great democratic principle upon which our whole system is

founded. It is true that in the end neither governor nor legislature can defeat the will of their constituents, the people, which will always work itself out despite the mistakes or misrepresentations of the public servants; and this is the great cure for errors like the present; but, though they cannot defeat, they can delay; and this is in truth the weight of objection to the veto power.

Unfortunately, the convention in this instance was governed by the weight of precedent; and this defect of the constitution, which the writer deems in point of importance second only to another which will be remarked in its place, is, like that other, a defect attributable solely to conservative servility and is wholly overlooked in all the clamor against the constitution by men who seem to forgive any error which is old and to tolerate no good which is new. But in this as in other incidental errors which somewhat mar the great democratic symmetry of this excellent constitution we must trust to the people for amendment. One gross abuse of this veto conservatism will purge our constitution of it forever; for no man can well appreciate the spirit of our system who does not feel that the conservative power of the public agents against the progressive power of the people is but the vapor before the sun; the fable is an old one, but we commend it to conservative lecture.

The subordinate executive, or as they are called, administrative officers, are a secretary of state who is ex officio auditor, a treasurer, and an attorney-general, all to be elected by the people of the state. The ordinary executive business of a state is generally so simple and so little that the congregation at the seat of government of a number of semi-idle state officers with great titles and little duties has tended to a great political evil of which more comment will be presently made. Our constitution considerably curtails the number and dignity of these gentry; and with the exception of the lieutenant governor, who does not properly come within this objection, the present number could not well be lessened. A governor there must be, and the several duties of secretary, treasurer, and attorney-general could neither be safely dispensed with nor safely consolidated; the union of the functions of secretary and auditor in one office is a safe and good economy of state dignitaries.

The residence, too, of all the state officers at the seat of government throughout the year seems also to be wholly unnecessary, except the better to enable them to spend large emoluments and to charge themselves with extra-official political duties. Under our constitution, especially, which strips the executive of all patronage, the residence at the capital of the secretary of state alone seems to

answer every desirable purpose. Accordingly, these articles, which could not prohibit the residence at the seat of government of any of these officers, require the residence of the secretary alone and discourage the residence of the rest. No governor will be likely, on a salary of \$1,000 a year for two years, to migrate from his home and business for a residence at the capital, except when his official duties require his presence there; and though the compensations of the treasurer and attorney-general are not and could not well have been fixed by the constitution, yet it would be so highly improper for the legislature to fix their emoluments at a higher rate than the higher and greater office of secretary, which is limited not to exceed \$1,000 a year, that it may be considered impossible. Unless his private convenience, for reasons wholly unconnected with his office, require it, it is safe to say that no governor, treasurer, or attorney-general will choose to reside at the capital. This will greatly tend to a great reform.

The great evil of the executive department of most of the states, as every person at all conversant with politics well knows, has been the congregation at the seat of government of an associated band of officeholders, who have assumed a species of political regency and exercised a vast control over the government of the state beyond their appropriate delegated authority. This constitution forever emancipates Wisconsin from this adventitious power; her destinies under this constitution can never be controlled by a central, unconstitutional influence. Independent of each other for their offices, and all alike responsible directly to the people, exercising no patronage to subsidize a local regency in every county in the state, with emoluments sufficient for compensation, but not enough for corruption, holding their offices for two years only, without any of that independence of term or tenure which often makes the servant feel like a master, without any temptation, pecuniary or political, to associate together at the capital—the executive officials of Wisconsin can never be linked together in that terrible unofficial influence, which in other states has been aptly styled a “regency”—a term pregnant with ponderous abuse.

Instead of an overshadowing central power, we shall have a decent, economical, simple, executive department. Placed, as all public officers should be placed, by wise organic provision beyond the reach of temptation, pecuniary or political, confined, as all public officers should in like manner be, to the legitimate and appropriate duties of their respective offices, the executive of Wisconsin can neither exercise by constitutional grant the patronage of the



people in the selection of the public servants, nor usurp by unconstitutional combination an improper influence over the politics of the state.

Thus, rather by what it omits to provide than by its affirmative provisions, it will be seen how admirably this constitution organizes and purifies the executive department. A comparison with the various state constitutions would extend this paper beyond the limits to which the writer is confined; but he cannot omit the remark that in the organization and restrictions of the executive this constitution seems to him, beyond any doubt, vastly superior to the constitution of any state which he has ever had the opportunity to examine.

### THE PROSPECTS OF THE CONSTITUTION

[February 17, 1847]

We congratulate the friends of the constitution throughout the territory upon its still brightening prospects. We have never for a moment doubted that it would be accepted by a large majority, but of late it has become apparent to us that it is gaining favor with the public daily.

The opposition to the constitution at first arose in part from the disappointment of individuals, because some one favorite measure was not inserted, or because some article was not modified so as to meet their precise views. Reflection has brought it home to many that no constitution can by [any] possibility be formed that will suit all; and the leading measures being approved by a large majority of all the people induce most to admit that as a whole it is good—better, perhaps—than that of any other state in the Union. The clamor that at first arose against it was more clamor than anything else; and there was not a little misrepresentation joined to it. That clamor had a momentary effect, but it is rapidly wearing away, and will, we think, almost disappear before the election. Those who are in favor of banks will of course be opposed to the constitution. Those who are in favor of a lavish expenditure of money by the state on internal improvements will likewise be opposed to it, and those who think a state debt a blessing will deem it decidedly bad. There are not many in our territory who belong to these classes, and there are fewer yet who dare own that they belong to them, but still there are some who do.

The objections to the sixth section of the bank article are rapidly vanishing, sensible merchants admitting that it will not affect credit

to any material degree, and many feeling that credits have been given to too great an extent for many years past. As to the want of specie, that is now but idle talk. Specie is coming into this country rapidly and must continue to come in so long as it is wanted. The last packet brought over two and a half millions and might have brought more, but the underwriters would not insure a greater amount. A portion of that will find its way here at all events; and if our new constitution is adopted a greater portion still will be sent to us. If we choose to use bank bills of course we cannot use specie, and it will disappear; but if we refuse them we will find that enough will come to fill up the vacuum. The sixth section will, we are satisfied, find favor among the people as soon as the alarm cry of want of specie subsides, and we will get along as well throughout the territory as the people of the mining district do now; and that is better than all the rest of us do.

This is to be an agricultural state and will require for its support but slight expenditures. Its constitution prevents debt, and that is important, very important, to all farmers. With its fertile soil, with its vast mineral resources, with its abundance of all the requisites for contentment, we do not see what it can want except a constitution that will prevent extravagance in the government and of course tend to check it in the people. A stable government, a stable currency, and an absence of that feverish excitement produced by governmental speculation are given by the proposed constitution and will secure to this people a fair division of wealth throughout the state. We shall be able to boast of no Girards nor Astors, but we shall at the same time be able to boast of a more generally wealthy population than any of the older states.

Whatever changes and chances may occur among the older states we shall probably be enabled to avoid, and those who come among us will come not to make vast fortunes in a few years and lose them perhaps in a few hours, but to earn gradually a comfortable independence, to keep it through life, and to bequeath to their children enough to give them a fair start in life. That the extravagant, that those overanxious to grow rich, should object to our constitution is natural. It gives no chance for rich bankers or for shaving brokers, or for those who grow rich by public jobs, and this we think is beginning to be felt. The opponents of the present constitution are principally those who live by precarious modes of business; and they have been very active in their opposition. They have not, however, opposed, as a general rule, those things they really did object to, but they have made their strong objections to those

minor points they deemed might be made unpopular, in hopes of a new convention where the principal articles and those which they dare not oppose may be struck out. It is well known that our constitution can readily be amended, and if they thought these minor articles as unpopular as they insist upon their being they feel that they would be altered at an early date. We think, however, the people see through them and are paying daily less and less attention to their objections. We think each succeeding day adds strength to the constitution, and we think these men are beginning in many instances to find this out and back out of their first positions.

We do not now regret that the opposition to the constitution was developed in the manner it has been, for we see that it weakens constantly; and we have now not a particle of doubt that it will be accepted by a large majority and will prove highly popular. The outcry that the constitution had no friends has passed away, and as a last resource an attempt is making to prove that it is a mere party affair and that all Whigs ought to vote against it. Where its opponents are reduced to this, its acceptance is pretty certain.

#### MR. STRONG: OUR COURSE

[February 24, 1847]

There is no more unpleasant position in which an editor can be placed than one where he feels himself obliged to contend vigorously with those with whom he has been acting, and with whom he hoped to act, and such is our position at present.

We are in favor of the constitution now before the people, believing it not only a good one, but one much better than any state in the Union possesses, and we mean to use every proper effort to procure its adoption. This brings us in conflict with those of our party who are opposed to it, and among whom we are sorry to find the Hon. Marshall M. Strong. For Mr. Strong we entertain feelings of high respect, believing him to be a man of talent, of honor, and one who has been, and is, highly esteemed by the people. But as we differ from him materially on this important question, we believe it necessary not only to oppose him, but to oppose him vigorously.

Mr. Strong has influence in this county, and his influence is all against the constitution. His name is the rallying cry of the anti-Constitutionalists, whether Whigs or Democrats, and we feel it necessary that not only the untenable positions he has taken should be made manifest, but that his own inconsistency should be exposed; and this course is in our opinion as fully forced upon us as if Mr. Strong was opposed to our party in all things.



Our readers, then, will find on our first page a review of Mr. Strong's speech, written in forcible language, but giving evidences to us of perfect truth. If there is anything in it misstated, we shall be happy, as will the writer, to have the error corrected at once.

We have been charged with unfairness in a previous article for calling Mr. Strong's position inconsistent. The review gives the proofs of his inconsistency by appealing to his public course and to his votes. It has been said our article was not courteous. We beg leave to deny this. Our aim at first was to say as little on the subject of Mr. Strong's last speech in council as possible, while at the same time we gave the public to understand that we condemned the position he had taken. That did not suit his friends, and we are now forced to take the only course left and oppose with vigor what we think erroneous in the conduct of Mr. Strong and injurious to the cause we advocate.

All must admit that Mr. Strong is at the head of the anti-Constitutionalists—that it is to him they look as a tower of strength—and it strikes us that it would be quite as inconsistent with our duties to pass by his efforts without attempting to correct what we consider wrong, to expose what we consider inconsistent, as it would to act in the same way towards the leaders of the Whig party and their efforts.

We regret the position in which Mr. Strong is placed, and the position towards him in which we find ourselves; but it is not our fault, and we cannot avoid the course we have chosen, but must content ourselves with the hope that a time will come when we may again act together, and that at a very early period.

We can assure Mr. Strong that he has many sincere friends at this moment among the advocates of the constitution, who regret his present position, regret the position in which we are placed, but who see in it no escape for either them or us from the line of conduct we reluctantly adopt, and who, while they will not be willing to lose his friendship, will not yet sacrifice the constitution to him.

A SHORT ANSWER TO A LONG SPEECH <sup>21</sup>

[February 24, 1847]

In the earlier skirmishes of the late war between England and China the bombastic "Celestials" tried a peculiarly celestial mode of intimidating the "Outside Barbarians." Their soldiers were paraded, terrible in all the horrors of war paint, each armed with a gong, tin trumpet, or other weapon of offensive noise, and on the advance of the English lines they were received with sustained volleys of all the horrid noises, clashing of weapons, and hideous grimacings which Chinese ingenuity could devise, and which Chinese faith held it impossible for barbarian valor to withstand. To the horror and astonishment of the "Celestials," however, the English troops moved steadily forward amidst all these accumulated horrors of sight and hearing, and finding their grand device of warfare lost upon the impenetrable dullness of their barbarian enemies the troops of the "Brother of the Sun" forthwith betook themselves to their weapons and finally to their heels.

The warfare, so far, of the opponents of our constitution has borne a close resemblance to these Chinese onslaughts of noise and grimace. Amidst a mighty hubbub of clamor and denunciation no attempt at argument was undertaken against the constitution. It was denounced as agrarian, immoral, ruinous; it was passed through all the degrees of bad, worse, worst; but why or wherefore no man said and no man seemed to know.

This vast confusion of clamorous attack failing to make any impression against the constitution, the mode of warfare underwent an obvious change. The noise was somewhat abated; an air of preparation and expectation was apparent; the piece was loaded, and lo! the first gun against the constitution was fired. Some who stood by say the piece was not only loaded, but overloaded; and hurt the artillerist in the recoil. Be that as it may, the first gun has been fired; and not the first gun only, but it would seem the great gun, too; for no sooner had the report ceased than the clamor was resumed to another burden, and the cry of the anti-Constitutionalist has now become, "Have you seen Mr. Strong's speech?"

Verily we have seen it and are sorry for the sight. We have felt a deep interest in Mr. Strong's political career and we deeply regret to see him where he is, arrayed with his old political enemies

<sup>21</sup> According to an editorial statement in the Milwaukee *Sentinel and Gazette* for March 1, 1847 the author of this article was Edward G. Ryan of Racine.



against almost all his old political associations. We could have better spared another man, for with Mr. Strong's abilities and position he could have done his party service, and his party could have done him service. But so it is; and as Mr. Strong is no obscure adversary and has seen fit to place himself forth as the champion of the anti-Constitutionalists, he can find no fault with his own party friends if they deal in pertinent stricture upon his course and his speech.

Mr. Strong opens with some explanation of his own course upon the constitution. Some explanation seemed certainly needed, for it unfortunately happened that when he went from home to the legislature he left behind him two sets of constitutional sponsors: the one pledged him on the faith of his own declarations to go for the constitution; the other, on the like faith, pledged him to go against it. The noes have carried this doubtful question without a count.

Mr. Strong says that when he saw that "many members of the convention and some of the presses in the territory"—he might have said an almost unanimous vote of the Democratic delegates in caucus and every Democratic press in the territory—"had recommended the adoption of the constitution," and when he had been told that "those measures which seemed to be most injurious were very popular," he "hesitated." But when he heard that "those same measures were received by the people generally with utter condemnation, the path of duty seemed plain." In other words, Mr. Strong—in utramque partam paratus—if the battle had been an easy one—would have supported the constitution; finding it in his judgment a more than doubtful issue he has chosen to lead its opponents. This discovery and conclusion it would seem he could not make at home amongst the people; the duty of Mr. Strong's conversion was reserved for the political coteries at Madison.

Although Mr. Strong says that he would not speak disrespectfully of the late convention, yet, so far as a man can sneer on paper, he endeavors with obvious bitterness to sneer away the character of that body. "It was too numerous," says the speech. Mr. Strong was one of the legislature who fixed the representation in it. "There were too many standing committees," says the speech. Mr. Strong voted for the number. "There were two factions in it," says the speech. Mr. Strong was originally as well identified with one of them as any other member of that body. "The convention did not work well as a body," says the speech. "One may have four horses, each one of which may be excellent, and yet no two of them will work well



together." Rarely, sir. But in a four-horse team a man may well have one horse who sheers from side to side, balks at imaginary obstructions, and finally bolts the track altogether. "I resigned," says the speech, "and returned home."

Perhaps what was well understood in the convention may not be generally known; and after Mr. Strong's sly flings at the convention it is but fair to assert the presumption that had other circumstances permitted him to occupy such a position of eminence and influence in the convention as his friends anticipated for him and his acknowledged ability deserved, he would have thought and spoken in higher terms of that body and its members.

The first onslaught of the speech is upon the section providing for the rights of married women. Mr. Strong assumes that this section places married women on the footing of the civil law, with power to contract and be contracted with, to sue and be sued, to trade and be traded with—in fact that the constitution makes her as does the civil law a separate legal person in all respects from her husband. The constitution does no such thing. Whether rightly or wrongly, the constitution simply aims to alter the common law in a very simple respect. By the civil law a wife is in all respects a separate legal person from her husband, marriage making no difference in her rights and liabilities to third persons. She retains in her own right and subject to her sole use and control all her property, real and personal; contracts and is liable for her own debts; receives and appropriates her own earnings. In fact she is as independent in property and business of her husband as her husband is of her. By the common law, under which we live, a wife is incapable of contracting in her own behalf and incapable of holding property in her own right. If at the time of her marriage she have real property or afterwards acquire it, her husband instantly takes an estate in it for their joint lives, and the wife can have no control of it or income from it until after her husband's death. All personal property of the wife instantly becomes the absolute property of the husband; a married woman can never be the owner of a dollar or of a dollar's value. That this law often works great wrong and evil, too obvious to need example, even this speech admits.

The constitution, aiming to correct these evils, simply provides that "the real and personal property of the wife shall be her separate property" and that "laws shall be passed providing for the registry of the wife's property and more clearly defining the rights of the wife thereto." This, then, is a simple declaration that, the common law notwithstanding, the husband shall not take a life estate in the wife's

real property and shall not become the absolute owner of her personal property. No more, no less—the constitution does not go one iota beyond this, as will be seen by our quotation. The rest is left—as Mr. Strong would have it left—to the wisdom of future legislation. And future legislatures will have precisely the same power on this subject as if the constitution were absolutely silent upon it—no more and no less—except that they cannot endow the husband with absolute power of using or abusing his wife's property and leaving her a penniless widow or an abandoned beggar.

Nor is this all. The common law, which abounds in fictions and evasions, provides a way in which all that the constitution seeks to do may be now done without any such provision. The husband takes a life estate in the wife's realty, but if the realty be conveyed by the wife before marriage, or by those from whom she derives it after marriage, to trustees for the separate use of the wife, then the husband takes no life estate. So the husband becomes absolute owner of the wife's personalty; but if this in like manner be transferred to trustees for the wife's separate use, the husband takes nothing in it. And in either case by the intervention of trustees the wife has the separate control and absolute use of her property, real and personal. These conveyances to trustees for the use of married women are in every day's practice; they are on record in perhaps every register's office in the territory; they certainly are in ours; and all this none knows better than Mr. Strong.

So this much abused section of the constitution, whether wisely placed there or not, seeks to do no more by simple operation of law than may now be done by conveyancing. It merely extends to all a benefit now practically enjoyed only by persons of considerable means. Here is no adoption of the civil law; here is no right to contract, to trade, and to sue; here is no license to the married woman to form partnerships with her husband or others, or in the chaste phraseology of this speech, "to take dormant partners"; here is no declaration that "it will be none of her husband's business who are her partners or her paramours"; here is no license to the sex to bear "one-fourth of the children illegitimate," as is said to be the case elsewhere under the civil law. The women of America can be brought to resemble this picture by no law; this ribaldry is ill applied to the sex of whom it is so truly and beautifully said that without their pure and gentle ministrations the beginning of life has no succor, the middle no charm, the end no consolation.

Mr. Strong anticipates frauds under this provision. No doubt there will be such; but no less doubt such frauds may be and are



practiced now as well without it. No law can guard against attempts at fraud, but our law provides an adequate remedy against such frauds, whether practiced under this provision or by conveyancing without it. The truth is, it seems to us, that this speech in this instance as in others retails and misapplies arguments used in the convention against this provision with an entirely different application.

Next in order of assault comes the provision for a freehold exemption. Upon this subject the present speech merely quibbles a little about the corners and saying very little on the principle of the provision refers to the speech of Mr. Strong in the convention against it.

We have this moment read that speech carefully and thoroughly; and we say it bears no application to the present article in the constitution. When Mr. Strong made that speech in the convention, the section as it then stood placed no limitation of value on the forty-acre exemption and did not confine its benefits to residents. On these points that speech is founded, and well does it point out all the wrong and injustice of an unlimited exemption to residents and nonresidents alike. It takes no ground against the principle of a freehold exemption.

Within an hour or two of its delivery Mr. Strong resigned his seat in the convention and went home. Some time afterwards the convention amended the provision, limiting the value of the exemption and confining its benefits to residents; and so completely did these amendments obviate the whole argument of Mr. Strong's speech, then published, that his most confidential friend declared in the Democratic caucus in giving in his own adhesion to the constitution that although he was not authorized to give any pledge for his friend who had resigned and gone home, yet with an intimate acquaintance with his views and a knowledge that his great objections to the exemption were obviated by subsequent amendments, he felt safe in assuring the caucus that his friend would be found for the constitution. The amendments subsequently made are a perfect and logical answer to the speech made in the convention.

As to all the petty difficulties in the operation of the exemption which Mr. Strong urges we have only to answer that all the detailed operations of the provision are left to future legislation by the constitution, which simply affirms the foundation of future detailed enactment.

Quoth the speech before us, "It is the opinion of one of the judges of the supreme court and I am told of several good lawyers that the



adoption of this section repeals all laws and prevents all legislation forever on the subject of exemptions." Verily, a Daniel come to judgment! If such be the opinion of one of the judges, we have seen no better argument for state government to rid us of so singular a judicial luminary. As to the "several good lawyers," we are curious to know who they are. One thing is certain—Mr. Strong is not one of them; although he avails himself of the cat's paws of one judge and several lawyers to rescue this rare legal nut from the ashes, he is himself too good a lawyer and values his reputation too justly to burn his fingers by holding any such opinion as that the exemption of a freehold today annuls the exemption of a yoke of oxen yesterday or prohibits the exemption of a span of horses tomorrow. This constitution, in adopting all the laws of the territory not inconsistent with it, adopts the present exemption of personal property until altered by the legislature.

Mr. Strong seems to mistake the humane policy of all exemptions. Hear him: "The general rule is that the debtor's property shall be liable to pay his debts, and it is just. The exemption law is an exception to this rule, and wearing apparel, beds, a certain portion of furniture, and other property are exempted for the sake of decency and humanity and because they would be of little worth to the creditor."

So whatever is of value to the creditor is not to be exempt! No, sir; that enters not into the humane rule of modern legislation. It is based on something higher and holier than that. Founded on the true spirit of enlightened Christian charity and beginning with the exemption of man's person from incarceration, the humane legislation of modern times assumes that all men, debtors or creditors, are entitled to such exemption as leaves them the enjoyment of life and the means of supporting life. And when Mr. Strong has so much to say of fraudulent debtors, let him remember the remark of a very great jurist who said that in a long practice he had met many fraudulent creditors for every one fraudulent debtor.

Let men put to rest forever all such idle and indecent fears as assume that these two sections will make knaves of all our men and prostitutes of all our women. Let men think better of their race and of their country; the chastity of our women and the integrity of our men are founded on something more steadfast, high, and holy than any human law; neither law nor constitution can make or can unmake them; they come of God, and with His blessing will last our day and after our day be handed down by honest sires to honest sons, by pure matrons to chaste maidens. These two sections were

legitimate subjects for Mr. Strong's opposition; for with many present friends of the constitution he opposed them in the convention. But for the dignity and consistency of Mr. Strong's position we are sorry to say that this remark is not true of any other single objection urged against the constitution by this speech.

Mr. Strong urges against the constitution the large number of the legislature—"a serious defect"—quoth the speech.

Excellent harmony of Mr. Strong's sayings and doings! The present apportionment of the constitution was reported to the convention on the second day of December and adopted as an amendment to the article on the legislature on the third of that month, Mr. Strong voting for it; and the article thus amended, containing this very "serious defect," passed the convention on the fifth of that month, Mr. Strong voting for it. Yes, the presence of this alleged serious evil in the constitution was engrafted in it as much by Mr. Strong's support as by that of any other member of the convention which he thus denounces for his own act. Not less than six of the twenty-eight pages of this speech are filled with denunciations of the article on the judiciary, which Mr. Strong styles "miserable judiciary"—a "master evil of the constitution"—and which seems to be his grand objection against it. Admirable consistency of Mr. Strong! The article on the judiciary after a very lengthy and elaborate discussion of many days was passed by the convention on the second of December, Mr. Strong voting for this master evil of the constitution. Yes, strange as it may seem, this grand climax of the evils of the constitution owes its existence as much to the vote of Mr. Strong himself as to the vote of any other member of the convention which he thus again denounces for his own act.

It is here not a little remarkable, when so large a portion of this speech is directed against the elective judiciary, that although Mr. Strong voted for the amendments providing for the appointment of the judges, yet through all the discussions of the elective principle Mr. Strong remained silent in his seat, and those amendments failing, voted for the election as it stands. Why reserve his objections until the constitution had been submitted to the people? Why silent when it was yet time to alter, and clamorous only when too late? Why, when Mr. Strong failed in his choice on appointments, support the election in the convention and oppose it before the people? Consistent only in inconsistency, Mr. Strong's course is singularly defective in harmony of design and of conduct. But the climax of this speech's inconsistency is yet to come. Another objection to the constitution found in this speech is the famous sixth



section of the bank article, for which Mr. Strong says he voted in the convention "because he thought it abstractly right then and he thinks so still." Why, if it be right, object to the constitution for containing it? It seems difficult to suit Mr. Strong's delicate constitutional appetite; he will not swallow what he thought wrong in the convention and thinks wrong now; he will not swallow what he thought right then and thinks wrong now; and here he finally refuses to soil his taste with what he thought right then and still thinks right now. Right or wrong, his squeamish palate nauseates at any pill prescribed for his consistency by this constitution, even when he himself chose the materials and helped to compound it.

But says the speech, "It came upon us unexpectedly by an amendment offered in the convention." "I doubted because the subject was entirely a new one." "Confidently hoping at that time that we should frame a good constitution, I did not wish to endanger its adoption by inserting this provision and thus lose all by grasping too much."

Aha! ar't there, old True-penny? One would think from this speech that this section had been sprung by surprise on Mr. Strong's youth and inexperience; that it was rather forced upon his easy good nature; that he reluctantly assented to it and immediately regretted his assent. Too bad it was, quite too bad, really now, thus to impose on Mr. Strong's passive and hesitating compliance. We must examine the manner in which Mr. Strong was thus misled to vote for what was right then and is right now.

On the sixteenth of October the original sixth section was offered as an amendment to the bank article. As offered, it excluded ten dollar bills after 1847, twenties after 1849, fifties after 1851, and hundreds after 1853. In this shape it was supported by Mr. Strong. The mover subsequently altered it so as to exclude only tens after 1847 and fifties after 1849; in this shape it was adopted by the convention, Mr. Strong voting for it—vote No. 1. The question was then taken on agreeing to the article as amended, which was decided in the affirmative, Mr. Strong voting for it—vote No. 2. On the nineteenth of October a motion was made to strike out the fifty dollar clause of the sixth section so as to leave it an exclusion of ten dollar bills only, which was lost, Mr. Strong voting against the motion—vote No. 3. A motion was then made to strike out "fifty" and insert instead "twenty" in the last clause of the section, so as to leave the sixth section precisely as it now stands, which was carried, Mr. Strong voting against the motion to reduce the amount excluded—vote No. 4. A motion was then made to add to the section



an additional clause excluding fifty dollar bills after 1851, which was lost, Mr. Strong voting for the motion to raise the amount excluded—vote No. 5. A motion was then made to strike out the entire section as amended, which was lost, Mr. Strong voting against the motion—vote No. 6. The question was then taken on agreeing to the article as amended, which was decided in the affirmative, Mr. Strong voting for the article—vote No. 7. On the twentieth of October the question was taken on the final passage of the article and it was passed, Mr. Strong voting for it—vote No. 8. On the twentieth of November a reconsideration of the bank article was moved and lost by a tie vote, Mr. Strong voting against the reconsideration—vote No. 9. So that by no less than nine distinct votes, cast after a vast deal of consideration and debate, through an interval of thirty-five days, Mr. Strong supported and affirmed this very sixth section and three times voted to raise the exclusion of bank paper to fifty dollars. And yet this calm and candid speech would lead us to believe that he gave it but a casual, unconsidered, reluctant vote, soon repented, and denounces the constitution for what Mr. Strong himself might have undone, for his vote would have carried the reconsideration—denounces it for his own act, nine times reaffirmed. Verily, consistency is a jewel and a rare one in this speech.

“Entertaining these views,” continues the speech, “I should have voted to strike it out.” Had Mr. Strong remained in the convention he would have had the opportunity; he should have retained the trust committed to him by the people and not have deprived himself of the power of discharging what he considered his duty by voting against what he thought right then and still thinks right now. And these are all the points—the entire scope—of Mr. Strong’s objections to the constitution, in a pamphlet speech of twenty-eight close pages.

Ajax by Ajax only can be foiled; with little exception we have answered Mr. Strong against the constitution by Mr. Strong in the convention; we have shown that the weight of Mr. Strong’s objections falls upon his own work, approved by his own mature judgment, passed by his own deliberate votes, cast in a solemn sense of responsibility to his own conscience and the interests of the people.

But we can show all this more plainly, and out of Mr. Strong’s own mouth. The truth is that Mr. Strong labors under singular difficulty as an opponent of the constitution; for we believe that with the exception of the militia, married women’s rights and exemptions, he voted for every article passed by the convention while he remained in it, and nothing was subsequently done with which even

he can find a fault. If any member of the convention had reason to be satisfied with the general character of the labors of that body, Mr. Strong certainly was one; and accordingly in Mr. Strong's speech in the convention, published by himself, made on the seventh of December, after the passage of the articles on banks, the legislature, and the judiciary, for all of which he voted and to which he now so loudly and so violently objects, Mr. Strong uses this significant language: "I have not been absent at a single vote. I had hoped we should have formed a constitution which would have been a blessing to the people and an honor to the members of this convention; and although thus far it was not in some particulars what I wished it to be, I had determined to give it my active support."

Verily politicians have short memories. Such was Mr. Strong's mature and deliberate judgment then of the constitution so far; and yet now he finds its master evils in what was then in the constitution and in it by his own votes, and to which he had then determined to give his active support. Mr. Strong's activity has been too much for his consistency and has changed sides with singularly little grace.

The conclusion is inevitable—that soured against the convention and its labors and embarrassed by the grand faux pas of his resignation Mr. Strong has been lashing himself into hostility against the constitution and poisoning his own mind against his own work and against the dignity and consistency of his own position.

Mr. Strong has no apprehension for the affirmation of the present restrictions on banks, state debt, and internal improvements in a new convention. Does Mr. Strong forget the infinite difficulty of passing those articles in the last convention? Does Mr. Strong forget that it was only by an unyielding perseverance almost against hope, and after repeated defeats, that the friends of those restrictions were able to carry them? And if that was so in a Democratic convention, what must Mr. Strong expect from a convention composed of his present allies, who will inevitably have the choice if they and he succeed in destroying the present Democratic constitution? Mr. Strong's hopes like his fears appear to be very much at the control of his present convenience.

It is an unhappy thing for a politician to be arrayed on any question against his political friends—unhappy for him and unhappy for them. There is an awkwardness about it which Mr. Strong can not fail to feel, and we will not try to increase that sense. We have fairly commented upon his speech, and there leave it and him. None more deeply regret his present position than we do;



and after all this turmoil has ended in the adoption of the constitution which Mr. Strong himself so greatly helped to frame, none will be more glad to see his reunion with his political friends, none will be more rejoiced in his political advancement under a constitution which is right now and will be right then.

#### EXEMPTION OF REAL ESTATE

[March 3, 1847]

Notwithstanding the opinions of one judge and certain nameless lawyers, it ought to be well known to all that the section in the constitution that exempts forty acres of land does not prevent the exemption of personal property by the legislature. In fact the exemption law of the territory will be the exemption law of the state until another is provided by the state legislature.

The article in the constitution merely extends the principle of exemption adopted by the territory and most of the states to real estate, thus protecting men in a different way, but not interfering with that principle of exemption that has been adopted not only by this territory but by most of the states in the Union; and the cry that the mechanic is not to be as well protected in the enjoyment of his policy is one that is either got up to deceive, or else from a misconception of the principle of the exemption clause.

Real estate has only been made exempt by one state as yet, but the feeling in favor of such exemption is growing and most especially in agricultural states. Michigan is now trying to pass a bill to exempt a homestead, and there is no doubt many another state will follow. The principle of the exemption is the same in all cases. It is that you shall not strip the debtor of all his property, thus leaving him no chance ever to pay his debts unless he goes into business with his property covered up by some legal deceit, but shall leave him enough to live in some degree of comfort, with the hope that he may be enabled in time by his labor and economy to pay his debts.

We are aware that Mr. Strong seems to consider all exemption laws as mere charitable boons, mere laws to allow the debtor to exist at the mercy of his creditor, and merely enacted because the property exempted is too trifling to be of value to the creditor. We must then suppose that the law either holds the creditor to be an infamous scoundrel, who would take what was scarcely of any value to him that he might add to the misery of the unfortunate debtor, or else that it holds all men scoundrels and chooses to prescribe how far scoundrelism shall go, and where it shall stop, and to say that that place shall be on the very verge of destitution.



This is not the intention of any exemption law. The intention is that a man shall live, not in misery, not under constant apprehension, but with that proper degree of hope that will lead him to exertion, induce him to pay his debts, and earn for the future an independence that he can secure against temporary misfortunes. One thing all will feel to be true, and that is that there are hundreds now opposed to this exemption who would not have dared oppose it had it been advocated at the time the general insolvent law (as it was called) was passed. But that general insolvent law was for the especial benefit of those who had been dealers to great amounts, and they could not or would not pay their debts. To that, retroactive as it was, there was little objection, though it ruined many honest men; while to this, though not a retroactive law, the very men who were benefited by the former object. Be it so. Let them cry out against the injustice of allowing the poor man an exemption while they are in business with debts unpaid on the old score; but let the people compare the difference between the two, and we think the virtuous indignation against the small exemption in favor of the poor man will vanish at the thought of the great exemption that was granted to those who ever lived in luxury, both before and after the passage of the insolvent law.

But exemption laws are not intended as mere boons to secure against starvation. The poor laws are provided for that. They are intended to allow men more than mere existence, and therefore it is that the tools of a mechanic—the reasonable means by which any man is to gain a living—are now exempted in most states and will be in this. Exemption laws, we contend, will do more to make men honest than all the forcible means you can employ to collect debts. With them one creditor cannot pounce on all, leaving the rest unpaid and the debtor in misery and unable to pay.

We confess that those who oppose the exemption of real estate ought, to be consistent, to oppose any exemption laws whatever, except such as allow the debtor his daily subsistence, and the covering necessary for decency, not for comfort. We insist also that they ought to endeavor to restore imprisonment for debt, for it is no more unjust that the future labor of a man should go to pay his debts than that you should take away from him all means of paying in future. If you cannot exempt the means of labor, why not sell his future labor? No. The man of this country has a right not only to life, but, as the common saying is, "The world owes him a living." That living he ought to have, and this exemption is the first step to secure it to him.

The exemption of real estate is made constitutional, while the exemption of personal property is not, and to this many object. The reason of this is obvious. Everyone knows that no legislature would dare abolish the exemption of all personal property, and also that the articles in the schedule of exemption stand in need of constant additions, while with real estate it is not so.

That the exemption of real estate will be popular we feel certain. Indeed we have never known an exemption law that was not, though we never knew of one that was not warmly opposed, from the days when the body was exempted from the grasp of the creditor to the present time when it is proposed to exempt a small portion of real estate.

It is said that many persons are not worth in all the amount to be exempted. What of that? If they are poor, then is the more reason why their little should be secured to them in case of misfortune. We do not contend that this law is for the rich man. He does not want it. He had the insolvent law, used it, abused it, if you choose, but he took care to clamor loud enough about humanity to the poor when he wanted it, and the debts of many of those rich men to the poor never have been nor will be paid. Many a man now in debt lost more by the insolvent law than this exemption will amount to, but that was supported by men who oppose this.

Reader, calculate, if you please, how many exemptions of one thousand dollars it would take to make up the amount that the insolvent law exempted men in heavy business from paying, and then look how well those men are making out now; and you will see that the only exemption law they want is an occasional one, but when they do want it they want one to cover more thousands than one, more acres than forty, more villainy than the real estate exemption could cover in centuries.

#### THE CONSTITUTION—No. 6

[March 3, 1847]

The preceding numbers of these papers were written before the constitution as printed by order of the convention had been received; and the writer followed the numerical designation of the several articles found in the newspaper copies. These he now finds were erroneous; the article on boundaries is No. 1 and not No. 2 as designated in the preceding papers; the article on the act of Congress is No. 2, not No. 3; the articles on the executive and administrative are Nos. 3 and 4, not Nos. 4 and 5. And the next



article in order for examination is No. 5, on the constitution and organization of the legislature.

The legislative power is vested, as in all the states, in two separate legislative bodies, the one larger and the other smaller, the one chosen for shorter and the other for longer terms of service. Long experience has taught the vast safety from excessive and erroneous legislation to be found in the check afforded by such an organization; and it is deemed useless to make any comment on what is familiar in all forms and sanctioned by all experience.

The second section of this article provides that the number of the house of representatives shall not be less than 60 nor more than 120, and that the number of the senate shall not be less than one-fourth nor greater than one-third of the house; thus limiting the whole number of both houses to 75 at the lowest, and 160 at the highest.

These numbers are mere limitations of extremes; the end to be attained being such a number as will fairly and fully represent the great constituent body, the people, it was necessary on the one hand to provide for such a number as could represent the people; and on the other to avoid a cumbrous and useless number of officials. And as the circumstances of representation may change from time to time, and as our population must for many years greatly increase, it was essential to limit only the extremes, leaving each apportionment of representation to be made within convenient limits. Although it would be impossible to settle any exact ratio of the representative to the constitutional body, yet it is very certain that legislative bodies, to represent their constituencies in the proper sense of that term, must bear some proper relation in size to the numbers of their constituent population, and that the extent of territory over which the people whom they represent is scattered must enter largely into the consideration of the proper number of representative bodies.

It is very certain that a single man or a very small body of men cannot fairly or fully represent a large popular constituency. In all those various matters of home legislation, so infinitely more important in the actual and everyday interests of the people than the legislation of the United States can possibly be, it is impossible for a legislator to represent interests with which he is not conversant, wants which he does not witness, or finally communities with which he is not acquainted. We have had for several years full evidence of this in our territorial legislature, which could not represent, for it did not know, the various interests, wants, and wishes of a constituent body vastly too large for the miserable proportion of representation allowed to it by Congress.



All power is a temptation to usurpation and independence; and when the legislative power is vested in a few, so large a proportion of the whole power is vested in each that each feels too much his own consequence and power and is too apt to be led astray by all the various temptations, intrinsic and extrinsic, to which human nature is liable. In large representative bodies each feels the consequence of his solitary unit of power lost in the great aggregate and is much more apt to act as the legislative servant than the legislative master of his constituent body.

To be a truly representative body, therefore, the legislature must bear some relation of size, proportioned to the numbers of the people represented; and that relative size must be considered also with some reference to the extent of territory occupied by the people. One legislator can better represent 5,000 people congregated in the dense social and business relations of a village or city than he can represent 2,500 scattered over a rural district of twenty or fifty times the size; and a far less legislative body is needed to represent a population of 200,000 souls scattered over 75,000 square miles of timber and prairie than would be necessary to represent the same population densely crowded together within the extent of half a dozen New England counties.

On the first of June, 1846, our population was about 158,000; it was estimated by the members of the convention to have reached 200,000 before the close of navigation; and it is no undue calculation to put it by November next, when the legislature will first meet, at nothing less than 250,000. This calculation is much lower than would be warranted by the anticipations of many of the ablest and oldest inhabitants of the territory.

This population of 250,000 souls with which our state government will commence will be scattered over a country approaching double the extent of New York. The various divisions of local interests in the several counties which form for most purposes distinct communities are entitled to some measure of separate representation; and the whole state will be constantly advancing in population with those giant strides, of which the west gives the only modern examples. Under such circumstances it certainly seems apparent that the minimum of representation as fixed by this constitution presents too small a number even to represent adequately the thin, scattered, but numerous settlements of the state of Wisconsin.

If we are to be confined to such pitiful legislative committees as those assigned to us by Congress ten years ago as a frontier province just starting into existence, let us so determine; but let us retain this

miserable measure of representation at the expense of Congress; let us remain as we are, a province with the shadow only of a representative government. But if we determine to be a state, let us not sacrifice to a paltry economy the great dignity and utility of state government to be found in adequate legislative bodies truly representing the sovereign people of the state.

The constitution fixes the first apportionment of the legislature at 79 for the house of representatives and 21 for the senate. Some seem to consider this too large a number. The convention had in this respect a very difficult and delicate duty to perform, which will be lessened at each new apportionment hereafter. There were in the north a large number of counties, yet newly settled and of small population at the time of taking the census; and if the basis of representation had been placed higher than it was, none of these counties could have had a separate representative of its own in either house of the legislature. The representatives of those counties argued with great force that they were separate and distinct municipal communities; that they could not be adequately or fairly represented in their interests by a single representative chosen by some two or three of them jointly; that they had filled with population after the taking of the census with a far greater ratio of increase than the larger counties; and that finally a great injustice would be done to them unless they were allowed, as a general rule, a single representative in the lower house to each county. On the other hand it was contended by the counties of large population that each representative given to the small counties not based on population would be so much political power wrongfully taken away from the population of the large counties and would be a willful sin against the fundamental principle of our representative system of equal representation to equal population.

Under these circumstances, and after a great deal of discussion and of difficulty more than the convention had on any other one subject, a compromise was agreed upon. It was agreed to diminish the basis of representation to such a number as would entitle almost all the small counties to a single representative, thus making the legislative bodies somewhat larger than a majority of the convention deemed otherwise necessary. A large majority had fixed upon 63 and 21 as the respective numbers of the two houses; that number they increased by 16 for the sake of harmony and to save the great principle of equal representation to equal population, which to all who love the popular and republican integrity of our system is worth a thousand times told all the petty economy which would

sacrifice a great principle or an adequate representation of our people, to \$2 a day compensation to sixteen extra legislators, if extra they indeed are to be considered.

Let it be borne in mind here that this article provides for another census in 1848 and a new apportionment to be made thereon. So that this evil, if evil it be, will be an evil of two years' duration only. Then the legislature may if they see fit reduce the number; then the number can be more conveniently reduced, for the lapse of time will fill up with population those new counties for whose particular necessity the present apportionment was made.

And let it likewise be borne in mind that although from census to census the population will advance with vast progression, our territory will still remain the same; year by year, as our population increases in growth, it must also increase in density; and as it does so, it will continually require a less proportion of representation to population, for as is seen before, the denser the constituent body, the less representation in numbers is required fairly, fully, and adequately to represent its various interests.

And above all let it never be forgotten that it requires something of a popular body to represent a people. The power of each legislator will be less, and such as love power and expect it may advocate small bodies; but the safety of our institutions and the interests of the people have ever been found in large, popular representative bodies, which ever present a greater odor of popular will and a less assumption of personal ambition. For those who judge by comparison, we can only say that we remember one state whose legislature does not outnumber 100, and that we remember many states whose legislatures exceed 200. Wisconsin will be far below the average even of the new states.

There are no other particular features in this article which seem to need notice here at length. There is the usual provision for an enumeration and appointment [apportionment] of representation every five years; senators are to be elected for two years and representatives for one; a year's residence in the state is the only special qualification required for a member of either house, beyond the qualifications of an elector; and finally the legislature is required to meet once in each year.

The writer, who thinks the world is quite too much governed, would have greatly preferred biennial sessions. This would have been inconvenient for a year or two, until after there had been a thorough revision of our laws and a thorough organization of all the various branches of the government. But after that biennial sessions



would seem to be both cheaper and safer. This is another of the minor defects of the constitution which the writer hopes to see changed by the easy process of amendment afforded by this constitution, but he is not one who would sacrifice great things to small.

But the fifteenth section which limits the compensation of the legislators to \$2 per day for forty days and \$1 per day for every subsequent day will act as a great stimulant upon legislative industry and a great check upon all supererogatory legislation. The former sum will, as everyone who has tried the experiment can tell, be a very bare reimbursement of expenses to most men, and the latter sum will not defray the cost of the dignity. This provision is a most excellent reform, an admirable check on the disposition of men to protract their dignities, and on the long spun-out sessions of most legislatures. If it had been coupled with biennial sessions, it would have been an effectual bar to excessive legislation; and as it is, it would not surprise the writer if it should prove as safe and as economical to the full, as if biennial sessions had also been provided for.

On the whole, we find this a very satisfactory article and a safe one for the interests of popular government. Its evils, if such as are alleged against it are evils, which is very doubtful, will speedily disappear by the lapse of time and the increase of our population; for no one is hardy enough to assume that the representation provided for will be too great in three years from its adoption.

We next come to article No. 6, on the powers, duties, and restrictions of the legislature.

The grand restrictions of the legislative power which make this constitution so vast a stride in advance of every state constitution which preceded it are to be found in the articles on banks, internal improvements, and finance, and will be considered in the due order of those articles. In this article, however, and in some sections of other articles there are some very important restrictions which are worthy of great consideration and on which some comment will be made in this place. Some of these restrictions, of vast importance to secure the faithful performance of the will of the people, refer particularly to the purity of the legislative bodies themselves. It has been a great evil of the state legislatures that they who were sent by the people to make laws often went there rather to find personal advancement, using the public trust committed to them as a mere stepping-stone to more advantageous positions. All public offices are created for the sake of the office and not for the sake of the officers who fill them; and he who accepts a public trust should take

it in the full faith of discharging it fully and thoroughly, for its own sake alone; and no public servant in a high station should be permitted to barter the office which he has accepted, on the tacit faith of filling it for the full term, for any other whatever. When men look to one office as a mere step towards another, they can rarely find the firmness of conscience and of purpose to discharge its duties with sole reference to the honest and faithful discharge of them. And thus the political advancement of legislators has often corrupted and impeded the current of legislation.

By the fifth and sixth sections of article No. 17, "Miscellaneous Provisions," no member of the legislature can be eligible to any office whatever under the state or to the office of senator or representative in Congress during the full term of his office as legislator. In other words, a person accepting this public trust cannot, during the full term for which he is chosen to it, whether he resigns it or retains it, take any other office whatever, directly or indirectly within the gift of the people of the state. An admirable provision, which will send every member of our legislature to his duty with a sole view to that duty and without the power to barter or to logroll for any other. Weigh well that provision; it is well worth a long meditation; the more it is considered, the more pregnant it will appear of vast and purifying reform.

A kindred provision rather in advance of most of the state constitutions will be found in section 10 of the last article considered, by which no member of the legislature shall for a year after the expiration of the term for which he is elected hold any office created or enhanced in emolument during the time for which he was elected.

So far of the personal restrictions of the members. We will now point out some of the most important restrictions of the powers of the legislature. By this article it is provided that "the legislature shall never grant extra compensation to any public officer, agent, servant, or contractor after the service shall have been rendered or the contract entered into." A vast reform as all who understand anything of all the corrupt and corrupting influences and maneuvers of extra allowances will at once comprehend. A vast reform, indeed, full of the deep philosophy of the Lord's prayer as applicable to legislators in their official as in their personal relations—"lead us not into temptation." This one section, full of purifying reform against an abuse which besets all legislatures and corrupts so many, is worth all the evils alleged against this constitution. Ponder well upon it; it will brighten to the eyes of every intelligent freeman the longer he reflects upon it.

A kindred provision follows, by which the duty is imposed upon the legislature "to direct by law in what manner and in what courts suits may be brought against the state." When this provision has been fulfilled, we can hope that our legislature will nevermore turn from their legislative duties [to] settle doubtful claims against the state, but will leave such claimants as they should ever be left, to the common remedy of those who claim contested demands, a suit at law, whether it be against the state or against John A. Nokes.

It is also provided that "no private or local bill which may be passed by the legislature shall embrace more than one subject, and that shall be expressed in the title." A good provision against the bargains of private and local legislation.

It is also provided that the final passage of all bills shall be by yeas and nays, a good provision to keep the constituents informed of the representative.

It is also provided that the legislature shall have no power to authorize the immorality of lotteries.

By the twenty-first section of the bill of rights it is provided that "no money shall be drawn from the treasury for the benefit of religious societies or theological or religious seminaries," an excellent provision both for its general public justice, and for the integrity and purity of religious institutions.

By the sixteenth section of the same article that old relic of barbarous collection laws, imprisonment for debt, is forever abolished beyond the power of legislative caprice.

In the article before us we finally find the beginning, the only beginning within the power of the convention, of another vast and great reform in legislation.

The evils of local legislation have been very great—great in the incapacity of the whole state to legislate for particular localities, about which a vast majority of them can know nothing—great in the vast difficulty of procuring proper attention to meritorious local interests, simply because local—great even in this inadequate and imperfect measure of local legislation in the consumption of time and concentration of attention upon local interests which should be devoted to the general municipal law.

Private legislation and local legislation have, too often and too much, usurped priority over the interests of the people at large. There is in them a concentration of selfishness, a directness of interests which obtrude them everywhere, in season and out of season; and nine-tenths of legislators have gone to their duty without half the thought or half the interest for the great body of the municipal



law which they gave to a petty list of private corporations and local interests.

For some time past all these evils have been seen and regretted; and men have begun to think that all these petty details of local legislation had much better be placed within the power of the county authorities. This power will be safer in the hands of a county board [than] of [the] legislature for many reasons. All questions of local legislation will be thoroughly understood and appreciated; all interests can be there fairly represented; and in doubtful or contested matters the members of a county board can be elected with express reference to them, which of course could not be the case with the state legislature. The nearer home all legislation is brought, the better and safer it is: that problem was well settled by the admirable town government of New England. If each state can legislate better for itself than Congress could, each county in the state can for itself better than can the state at large; and there is no more propriety in the state exercising the local legislative power over each county than there would be of the United States assuming the local legislative power over each state—no more propriety, no more principle. There is no objection against a proper organization of county local legislation, except some conservative adherence to old usages.

But the experiment is untried, and the details full of difficulty, and it will take some time and some experience to settle well and finally the bounds of this local power of legislation. Accordingly this constitution simply provides that the legislature shall establish a uniform system of town and county government and may confer upon the county boards of supervisors such powers of local legislation and administration as they shall from time to time prescribe. It is to be regretted that this great reform could not be consummated in the organic law; but the seed is sown, and the harvest will ripen in due time and after due development.

Such are, in addition to the provisions on banks, internal improvements, and finance, the chief restrictions of the legislative power, and they are all well worth an abler and more detailed elucidation than the writer can give to them. They embrace many great reforms; they erase many great abuses; and had they one great addition they would be almost perfect. The writer alludes to the want of some general restrictions on the subject of corporations—the great defect of this constitution; greater than any possible new evil is this conservative reluctance to reform an old one. It is greatly to be regretted that some practical restraint was not placed upon the incorporation mania of our days, which runs wild after charters

from railroads down to village schools. All such enterprises would be better left to general acts, for the organization of joint stock companies, with the possible exception of railroads; and no private corporation should exist without the personal liability of the incorporator. If the writer comprehends anything of the tendency of the public judgment on this subject for many years, it would have sustained stringent provisions against the abuses of privileged legislation and the injustice of corporate immunities. But although great efforts were made in the convention to effect this great object, there was in it too great a conservatism of opinion, and this grand reform failed.

This the writer regards as the greatest defect of a constitution so excellent in many kindred respects; but beyond the hope of a salutary practice under it, or failing that—an amendment of the constitution itself—he finds a great consolation in the total extinction of the worst and most dangerous brood of corporations, and he remembers that the evils of the rest are as nothing to the evils of banks. It is an easy task for democracy to look through this constitution and find most ample consolation for its greatest defects.

#### THE CONSTITUTION—No. 7

[March 10, 1847]

In commenting on the article on the constitution and organization of the legislature one subject wholly escaped the recollection of the writer, on which he here takes occasion to add a few words. Some fault has been found with that article because the convention did not provide for the organization of the legislature by single districts. It is needless here to recapitulate the various considerations which recommend the election of single legislative representatives by single districts. This system if practicable or when practicable is beyond any doubt far more safe, more just, more democratic than the system now in general practice of electing representatives by general ticket in counties. But like many other very admirable theories the reduction of the single district system to practice involves very great difficulty. That is to say, it involves great difficulty unless a great and vital principle of our system be sacrificed to it, unless the principle of basing all legislative representation truly upon population be in a very great degree sacrificed to it. And the very instant that this great principle is sacrificed to any convenience, for any object, no matter how desirable or advantageous in itself, our system ceases to be truly democratic; the legislative power ceases to be founded strictly upon man, and legislation ceases to be truly and fairly the recorded will of the majority.

If it be necessary to the single district system to tolerate districts of unequal population, each equally represented by a single legislator, we sacrifice to it the great fundamental principle of our system—that our government is founded upon the free will of man, and that all men equally should hold an equal influence in it. Suppose the basis of representation to be, as it is, 2,000; one town with 1,500 population sends one representative, while another adjoining it with 3,000 population sends equally but one representative; each man in the smaller town weighs as much in the government as two men in the larger town; men are no longer politically equal; representation is no longer purely popular; government is founded upon accident and the aristocracy which assigns more power to some than to their fellows.

On the other hand, it is a work of great difficulty to divide the country into equal legislative districts. It is an easy task for the surveyor to district off the country into districts of equal acres, but it would seem to be a problem of infinite difficulty for the census taker to divide the country into districts of equal population. At all events none but the census taker can do it, and whether he can do it within any practical convenience and expense is a very serious question. The experiment is worth trying hereafter, by ordering a census with express view to the single district system; but it would be madness to provide by constitutional provision for what is of doubtful practicability.

And there is yet another grave difficulty to be considered. Our country is divided off into greater and smaller municipal communities, counties, and towns. These form for all purposes distinct communities and have little reference in their organization to population. Their boundaries are dependent more upon convenience of superficial size and other accidental circumstances of situation than upon any idea of equal population. Now it is evident that great evil would arise in the single district system from the necessity of dividing towns and placing small fractions of towns with other town or towns to eke out a single district. Take the basis at 2,000, and take the town of Racine: you set off a portion of Racine with 2,000 population as a district and add the balance of it with 1,100 population to the town, say, of Raymond, with 900 to make another district. Would that be convenient or would it be just either to the fraction of Racine or to the town of Raymond, which for such purposes are separate and distinct communities? It would work either so as to disfranchise Raymond altogether and give two representatives to Racine, or so as to give one to each town and disfranchise a



population of 1,100 in Racine. New York adopted the single district system, and this is the lame, unequal, and unjust mode in which New York is now engaged in districting her counties.

The obvious conclusion of wisdom was to leave it an open experiment neither required nor prohibited, to be adopted hereafter if practicable and when practicable, as our constitution has left it.

We next come to the consideration of Article No. 7, on the judiciary.

The just organization of the judicial department is one of the great difficulties of our system.

The practice of life appointments by the executive, which generally has prevailed in the states, is borrowed from the English system, although the principles on which the English practice is founded have no existence in our system.

The English appointments are made by the executive because in the English system all power comes from the crown. The boasted constitution of England is all founded on the royal grant or royal toleration; the crown of England was once as absolute as any other regal despotism. It is therefore a branch of the royal prerogative to make all judicial appointments, because this power has never been surrendered by the crown to any other branch of the English government. We need not say that this principle of executive appointment has no corresponding principle in our system.

For many ages there was a constant judicial struggle between the prerogative of the English crown and the freedom of the English people; this struggle even still occasionally reappears in seasons of great political excitement. Those great records of the struggles of human right against arbitrary power, the English State trials, give abundant and conclusive evidence that for many, many generations the boasted English bench was in all political questions a mere pliant and subservient tool of the royal power. To give some appearance of independence to the bench—independence, mark, of the crown—the appointment of the judges was made for life or during good behavior. This was essential to give some show of fairness to the adjudications between the crown and the subjects of the crown, to a bench appointed by one of the actual litigants in the great judicial contest for civil liberty between man and the usurpers of man's rights. We need not here stop to inquire how far this show of independence of the crown was sustained by reality; it is sufficient for our purposes to add that this principle of the independence of the bench by life appointment has no corresponding principle in our system.

But although the principles of the English practice had no presence in our system, yet a tame conservatism of old forms has hitherto, with few exceptions, retained the practice itself. It is in truth with us a simple question how to organize the judicial power on the safest and purest basis; but the blind subservience to the English system was so productive of grave evil that the judgment of all experience has pronounced against it, and men's minds have long been turned to the question how to organize the judicial power on a pure, safe, just, independent system.

To say nothing of the evils of the appointment of the judges by the executive, which were very great but were still occasional and accidental, the life tenure has been productive of evils, great in themselves and essential to the system. Lawyers have a maxim that all courts have a tendency to extend their jurisdiction. This is true of judges because it is a simple corollary to a maxim true of all humanity. Human acquisitiveness has as much application to power as to any other object, perhaps more. Judges placed upon the bench for life, independent of all ordinary human restraint in point of mere judgment, except the rules and practice and precedent of their own profession, are independent to a vice; and it is a simple lesson in human nature that with so little restraint upon them their decisions have become in a great degree more the judgment of a peculiar class of men than the unbiased interpretation of the recorded laws of the people.

When it is recollected that the great body of our municipal law, the common law, is unwritten save in the adjudications and treatises of the legal profession, and is in itself, in a great measure, a mere accumulation of the wisdom of great men in that profession, founded upon their very peculiar characteristics of great shrewdness in the current business of life and profound study of judicial philosophy—when it is observed that this great body of the common law had its origin centuries ago in an age and under institutions having little save the general outlines of humanity in common with our day and generation, and can generally be applied to the men and things of these days by a liberal application of principles only, rather than by a strict analogy of precedents—and when it is finally considered that the judicial functionaries of our time in bringing all laws, written and unwritten, to the standard of the principles and maxims of their professional education with an ability which finds all legislative enactment pliant and facile to the forms and judgments of long settled legal lore are only following the example of their judicial ancestors, who originated what they apply, according

to the peculiar lights and prejudices of a peculiar profession—little matter for surprise will be found in the fact, now the settled judgment of the country, that the bench has to a great extent usurped the functions of a coördinate branch of government and has practiced nearly as much judicial legislation as judicial interpretation.

It would be an easy task to dwell upon the proofs and causes of this usurpation of the American bench, and in its place it would be an interesting topic of speculation. But it is deemed useless to urge proofs in these papers of what has become the almost unanimous judgment of the American people—that the judicial bench has in its peculiar independence and permanence of tenure become independent of popular legislation, constitutional and municipal, and has in a very great degree usurped to itself under color of its peculiar duty of interpretation a controlling supremacy over the constitutional will of the people, recorded in the legislative department.

To find a remedy for this evil has been a very general object of inquiry for many years; and it is idle now to dispute the result, which is amongst the unquestionable signs of the times that the public judgment has finally settled upon the experiment of electing the judges for short terms by the direct suffrages of the people.

Upon the separate subject of short terms there is little if any serious difference of opinion. The inflictions which the life tenure has visited upon almost every American bench, when the course of nature was the only remedy for the presence on the bench of men just above incompetency and just without impeachment, have greatly aided the force of the general reasoning against the life tenure. In a new state where it is fair to assume that the material for the bench will every year be greater and better there can be no doubt of the policy of short terms.

Upon the question of the election of judges there remains still some doubt, grave doubt, in which the writer participates deeply. This is not the place to argue that doubt; it is sufficient for him, as it ought to be for all who think with him on this subject, that the mature and final decision of public opinion is in favor of the election beyond any possible question. The doubts of the writer can only be removed by the success of the experiment; the decision of public opinion can only be reversed by the failure of the experiment. To its workings all must appeal, and by its success all must abide.

Until experience shall have assuredly settled that the election of the judges by the people will not work safely or well, it is idle in the present state of public judgment to expect any popular convention



to decide for any other system. In Mississippi the experiment has been tried for many years, and the last three constitutional conventions which have assembled have determined in its favor—Iowa, New York, and Wisconsin.

That we have to try it is a fixed fact, whether the present constitution be adopted or rejected; that if it work as many fear it will prejudicially to the great duties of the judicial department, the people will have the virtue and sagacity to resort to some better system, is a fixed faith of every believer in our system. So much space has been occupied upon this single feature of the present article that little room is left for the rest.

All the details of the system are excellent. The system is simple, founded on the safest and most approved plan, the nisi prius system as it is called, which dispenses with the indolent, useless, and expensive presence of a separate appellate court. The provision requiring the judges to travel the state is an admirable plan to test the bottom of a judge, who might without merit raise a fictitious character in a single corner of the state during a five year's term, but can not well have a better than he deserves, under a year's service in each circuit of the state.

The combination of the duties of register and clerk in one office and the restriction of the office to a fixed salary of \$1,500, giving the surplus to the county treasury, is an admirable economy, which will in a few years reimburse the people for the whole cost of the judicial establishment.

And finally the prohibition of the judges to hold any other office during their full term of election, whether they remain on the bench or not, will forever end the disgraceful practice by which the sacred duties of the bench have been prostituted to the political advancement of the judges.

#### THE CONSTITUTION—No. 8

[March 10, 1847]

We now come to article No. 8, on the elective franchise. The principle of universal suffrage is now too well settled and too generally adopted to need any special notice. The only difficulty in the present article arose from the provisions of the United States law of naturalization. This law requires as the general rule a residence of five years as a prerequisite to naturalization. The writer believes this term to have proved by very general consent an unnecessary and impolitic delay to the naturalization of

foreign emigrants; and he believes that after the accidental political emuté of Native Americanism shall have disappeared—and it is daily approximating its disappearance—the general judgment of the American people will require a material abridgment of a term, which places an unnecessary restraint upon the action of a principal that has so incalculably contributed to the extraordinary growth in population, wealth, and production, of the American Union.

In the western states, especially, which depend wholly on emigration and very greatly on foreign emigration for the population which finds in them a final home upon earth and finding it gives all the actual value to the untold natural resources which the ever liberal hand of the Creator has here lavished beyond almost any other region of the earth, the policy of political encouragement to foreign settlement is too obvious for argument. And a very general consent of the new states has afforded to foreigners a great or less measure of political relief against the lustre of delay required by Congress to full citizenship.

In Wisconsin, in particular, it is a well-known fact that in many towns in the various counties, and even in several counties, a majority of all the taxpayers of full age are unnaturalized foreigners abiding the expiration of the term which will entitle them to the full rights of citizenship; and it would be a very peculiar hardship on such, as well as a most impolitic measure for the settlement of the state, to require citizenship as a requisite to suffrage. At the same time there should be a decent and judicious delay of the right of suffrage to foreigners and to all, to enable them to acquire some familiarity with the civil and political affairs of the state; and, in general, allegiance should be required as a prerequisite to suffrage.

In these considerations almost all western people will agree, notwithstanding some lurking hostility to foreigners which is perhaps more deeply felt than is freely spoken; but the application of them to a practical rule of suffrage would obviously and necessarily lead to many differences of detail. This article is accordingly a compromise of many opinions, and it is believed a very judicious and safe compromise.

It requires a year's residence in the state, generally preceded by some considerable residence, longer or shorter, within the United States. It requires a declaration of intention to become a citizen; right, because however much too long may be the five years of Congress, an intention to become a citizen is and ought to be legally ascertained in the foreigner, who is admitted to suffrage on the same

terms as the native or adopted citizen; and finally it requires an oath of allegiance, which secures the great principle that suffrage and allegiance should go together.

It is not deemed useful to dwell here upon this subject because, however a convention chosen by the opponents of the present constitution might act upon this subject—which is sufficiently doubtful—this article is not one of the alleged objections to the constitution; and as to those to whom it is thus liberal it is not deemed necessary to urge it on their suffrages.

The extension of suffrage to civilized persons of Indian blood is merely following out a decision of Congress and is right.

The question of negro suffrage does not arise, because that question is separately submitted to the people and is not involved in the discussion of the merits of this constitution.

The provision of the last section, which makes it a part of the oath to be taken by a challenged voter that he has not made any bet or wager on the election, is an effectual way to stop the immorality and corruption of the vast system of betting on elections which came in about 1840 and has not yet been checked. Few voters will disfranchise themselves for the sake of betting. That this is becoming popular even with the opponents of the constitution is sufficiently obvious in the marked decline of their betting propensity within a few weeks past.

We next come to article No. 9, on schools.

The plan of a general state system of supervision provided for by this constitution is borrowed from the New England States, is acknowledged to be the best and most effective system, and may give us to hope some day for such a glorious system of common schools as under and by its influence has been attained in Massachusetts. The provision for a school fund is very ample—far beyond the provision designed by Congress. The third section requires a tax in every town for school purposes, although no minimum is fixed; and in addition to this the ordinary school fund would be the income to be derived from the school sections. But the convention made far more ample provision for our school system. Congress has made two grants to the state for purposes of internal improvements: 500,000 acres of land and five per cent on the net proceeds of the land sales within the state. The convention proposed to Congress to devote these noble grants to schools; and an act of Congress has now passed the House of Representatives and will undoubtedly pass the Senate, consenting to this diversion of these grants to common school purposes, provided the constitution be adopted. The



measure did not pass without grave opposition; but it is now safe and secures to Wisconsin under this constitution a noble school fund.

That this subject is amongst the most important in the constitution nobody doubts; and that the article is an admirable one nobody questions. Talk of the corruption of the people by the rights secured to women or the freehold exemption! The people will preserve their high integrity of character in spite of all legislation just so long as the facilities of enlightened education are within their reach. Generation will succeed generation with a higher tone of morality and a higher qualification for self-government just as the means of education are increased and elevated from generation to generation. Assure the gradual progress of solid and enlightened education, and take no other heed for the morality of the people. The distribution of the school fund is equitably and fairly provided for, and the sectarian disputes which distracted and disgraced New York are forever obviated. There is the excellent provision for school libraries in every town, to be formed from the proceeds of military and penal fines; and finally the whole fund is devoted forever to common schools, where the children of the rich and the poor, the distinguished and the obscure, the native and the foreigner, shall be instructed in a common education and grow up together under a common system—in every social and political relation, a common people.

#### DEMOCRATIC PROCONSTITUTION RALLY

[March 10, 1847]

The following are the resolutions passed at the Democratic constitutional meeting, on Saturday evening, February twenty-seventh.

“WHEREAS, The day is near at hand when the people of Wisconsin will be called to vote for the acceptance or the rejection of the new constitution and to say by that vote whether they will now come into the Union with all the privileges and prerogatives of a sovereign state or whether they will be content to remain at least two years longer in the old condition of territorial dependence, with a constantly accumulating debt on their shoulders and a consequent yearly and grievous recurrence of taxation—

“*Resolved*, That, in the infinite variety of human opinion necessarily incident to the imperfect nature of human reason any near approach to unanimity on all the details of the organic law of a state is something beyond rational hope; and that the political history of our country teaches us in corroboration of this abstract truth that all constitutions have been compromises of opinion.

*Resolved*, That, making due allowance for this impracticability of a unanimous constitution, we are glad to recognize all the alleged defects of our constitution in its minor details, and that in its great leading features we are able to recognize a noble embodiment of all those great Democratic principles of reform which distinguish this generation as emphatically a generation of progress.

*Resolved*, That, while our constitution exhibits little provision for the ambition of political aspirants and little scope for the influence of political cliques, we are not surprised to find among its most active opponents those whose prospects and power are thus wrested from their hands.

*Resolved*, That no constitution has ever before so fully trusted the people, so fully restored to them their power hitherto so greatly usurped by their servants, or so guarded and embodied the great republican principle that all power comes from and belongs to the people; and that we are proud to designate this as emphatically the constitution of the people.

*Resolved*, That the safeguards set round our state government against all the old brood of corruption which, under the insolent pretence of furnishing the people with paper money, railroads, taxes, and state debt, battered upon the substance of the producing classes and impoverished the state that a few speculators might grow rich upon the spoils, form a vast stride in constitutional reform which thriving millions will live hereafter to bless in the prosperity of Wisconsin.

*Resolved*, That Wisconsin, starting her state government with the golden rule to owe no man anything, will go far to redeem our national honor from the disgrace brought upon it by the active or passive repudiation of so many of the new states which commenced their career in full faith of the prosperous elements of banks, internal improvements, and state debt.

*Resolved*, That, while no objection has been urged against this constitution on the ground of excessive power of the politicians under it, and all the open objection against it is founded upon fears of the corruption of the people, we feel that this constitution has filled every measure of our desire in this respect by guarding the politicians against corruption, and that the integrity of our people, to say nothing of the chastity of our women, may safely be trusted to Him who made man in His own image and the religious constitution of the Christian revelation.

*Resolved*, That in accordance with the liberal spirit of the age the rights and the interests of those of our people who have come

from abroad are secured and guaranteed by this constitution on principles of equity, justice, and humanity.

*Resolved*, That we deem it our duty as good republicans and good citizens to vote for the adoption of the new constitution, and to use all legal and honorable means to persuade our friends and fellow citizens to do the same.

*Resolved*, That as all friends of popular government in Wisconsin have a vital stake in the adoption of our new constitution, we call on them to come up to its rescue and battle for liberty, equal rights, and constitutional protection. The struggle may be fearful, but the victory will be sure. Wisconsin is destined to be peculiarly the "land of the free and the home of the brave." Nature has done her part towards it; let our free people now do theirs by adopting the constitution and hastening that propitious destiny.

*Resolved*, That a Democratic constitutional committee of vigilance be appointed, to consist of five friends of the new constitution, whose duty it shall be to take all honorable and precautionary steps to secure the adoption of the constitution at the approaching election on the first Tuesday in April next; and to continue their vigilance and exert their efforts in this behalf until the boxes shall proclaim the will of the people—that Wisconsin is a sovereign state of the Union."

In accordance with this resolution the Chairman appointed the following persons to constitute said committee, viz., Philo White, Henry Bryan, Thomas E. Parmele, J. A. Titus, David Smoke, Isaac W. Geer, Stillman Emerson.

#### AN ELECTIVE JUDICIARY

[March 10, 1847]

The constitution now before the people of Wisconsin guarantees to them the right to elect their judges, a right that has been mooted for many years and has been constantly growing in favor among the people. We are well aware that a great number of lawyers are opposed to this plan, and among them are many excellent men, but we are equally aware that this same dread of change has been ever manifested by good and sensible men whenever anything new was brought up.

Thomas Jefferson thought that the experiment was at all events worth making, holding that it was the duty of all men in this country to resign to the people all power it was possible to put into their hands, and holding it far from certain that any of the objections urged against the proposition were tenable; while it was very obvious to him even then that great good would ensue were it possible thus



to have the judges appointed directly. Since his time the errors, the abuses of the old plan have become much more manifest, and it becomes still more imperative upon the people to try this great experiment, whether they can not keep the ermine more unsullied by directly appointing those who are to wear it, than it has been kept by the mode of appointment so long practiced, which removes the appointing power many steps.

All must allow that the present mode of appointment is bad. All must allow that if judges are independent of the people while in office and therefore need not incline to popular opinion on that account, yet that they are as constantly looking for political promotion from the bench and therefore quite as likely to be swayed by the breath of popular feeling. The office they hold may be secure; the office they aspire to is not; and their aspirations will influence them to bend to the will of the people now quite as much as their security of place would then render them independent. In other words the offices they now want from the people offer as strong temptations to vacillation as the continuance in their office under the new plan of election would then offer.

New York for many years past elected by the people both the lowest and highest court, her justices of the peace, and her judges—or an immense majority of them—in the court of last resort; and these elected courts were as pure as courts that were appointed by governors or legislatures.

“But,” say the opponents of the election of judges by the people, “justices of the peace are elected under different circumstances.” This is equivalent to saying they cannot deny that the experiment so far has been successful—and we cannot make a comparison. Be it so. Now let us see how the judges of the court for the correction of errors were elected in New York. The members of that court were elected on political grounds, in the strife of political elections, in the hottest times of political excitement—were even elected in 1840, when men were carried away in a whirlwind of excitement that they could not themselves analyze, and that was therefore fiercer and more unreasonable. In the election of these judges, none asked whether they were competent as lawyers, competent as judges, learned, cool, calm, bold, energetic, industrious, or independent of political feeling. Men asked whether they were good partisans, whether they were in favor of certain political moves, or perhaps whether they were available.

Yet under all these circumstances this court was not to be despised for its corruption, and was in the end abolished not because the

principle of election was deemed wrong, for that principle only was retained, but because its duty as lawmaker and law-expounder clashed, and because the people had not a fair opportunity to show their discrimination when they were obliged to elect men for the many different purposes for which these men were elected. Depend upon it the people will support men who oppose their wishes on the bench, when such opposition is exercised conscientiously. Boldness men admire, even when opposed to their wills; and the judge who has sense enough to see what is right will secure not only the goodwill but the enthusiastic respect of those who elect him.

The people have, in our opinion, more coolness than they have credit for, and will never object to a judge who is right and firm; and if he is not right, his firmness is an injury to all, and he must and ought to suffer for the wrong he does on the bench by being restored to private life at the earliest opportunity.

#### THE CONSTITUTION—No. 9

[March 17, 1847]

The order of these papers brings us next to article No. 10, on banks and banking.

So decided has been the condemnation of the whole banking system by the American Democracy that the remaining advocates of its abuses who have any inkling of the tone of public feeling on the subject are obliged to fight under false colors; and accordingly it is found that the opponents of this constitution deal more in misrepresentation of the provisions of the present article than in open opposition to its real restrictions. So extensive have been the falsifications of these provisions, that a brief explanation of their scope is deemed a pertinent preface to the consideration of their principles on which they are based.

The article contains seven sections, of which the first five are restrictions of the banking power, the sixth is a restriction of the circulation of bank paper, and the seventh is directory to the legislature to enforce the provisions of the six preceding sections.

The banking powers are four in number: issue, deposit, discount, and exchange. The first section embodies the general principle that there shall be no bank of issue in this state. The second section prohibits the legislature from conferring any of the banking powers on any person or institution. The third section prohibits any institution or person from issuing "any paper money, note, bill, certificate, or other evidence of debt whatever, intended to circulate

as money." The fourth section prohibits any corporation from exercising the business of deposit, discount, or exchange. The fifth section prohibits the establishment within the state of any branch or agency of any foreign bank.

It will be remarked that these provisions in the constitution are elaborately careful and in some instances apparently redundant. Experience had taught the framers that the devices and evasions of the money power are innumerable, and that gold had but too often purchased its way through the obvious policy of constitutional and legislative restriction. It is believed, however, that against these provisions the gates of Mammon shall not prevail. These provisions absolutely prohibit to all persons, with or without charters, all exercise of the power of issue, all power of making paper money. They prohibit to corporations all exercise of any of the banking powers, because experience has shown that if a moneyed corporation have any of the banking powers it too easily finds excuse to usurp them all. The usurpation by a moneyed corporation of all the banking powers, under color of the single right to receive deposits, is sufficiently exemplified in a neighboring city. They prohibit agencies of foreign banks, for otherwise we might have all the evils of banks without any control over them. They prohibit the legislature from interfering to confer on any of the banking powers. But they leave free to individuals or associations of individuals the three banking powers of discount, deposit, and exchange, which may be exercised by private persons of wealth without any of the evils of moneyed monopolies and with as much advantage to the business interests of the public.

It has been represented that the prohibition of the third section "to make or issue any paper money, note, bill, certificate, or other evidence of debt whatever intended to circulate as money" was a prohibition of the use amongst us in the ordinary business of life of promissory notes, bills of exchange, and certificates of deposit. A more wilful and miserable misrepresentation never was resorted to by error to obscure truth. Paper money, which, although uttered as money, is after all only a security for the payment of money, assumes many shapes. Its more general form is that of a promissory note, but it is often issued in the form of checks, certificates of deposit, etc., etc. Hence all restraining clauses, as they are termed, which exist in perhaps every state of the Union, recite the various shapes in which paper money is issued and prohibit the issue of notes, bills, certificates, and other evidence of debt, intended to circulate as money. In this very territory we have now and have



always had such a restraining clause against unlawful banking, which anyone can find at page 146 of the *Revised Laws* of 1839 in the following form:

No person or association of persons or body corporate, except such bodies corporate as are expressly authorized by law, shall issue any bills or promissory notes or other evidences of debt for the purpose of loaning them or putting them in circulation as money, unless thereto especially authorized by law.

Neither this restraining clause of our present statute nor the provisions of the bank article prohibit any dealing in notes, bills, certificates, or other evidences of debt; they simply prohibit the issue of these as paper money, when intended to circulate as money. For the legitimate uses of promissory notes, bills of exchange, certificates of deposit, etc., etc., as securities for the payment of money, men are just as free to deal in them, to issue them, to negotiate them, to pass them, as if such restraining clauses had never existed; but they cannot, like the Milwaukee Insurance Company, issue them to circulate as money.

The question whether any evidence of debt was issued as a security for the payment of money in the ordinary course of business or with intent to circulate as money is always a question of fact for a jury to decide and it could never involve any difficulty with men of ordinary sense.

It has been objected that to prohibit to an individual the right to issue his paper as money and circulate it as money, if he could, is an invasion of private right. It is no such thing; the power to issue money is one of the attributes of sovereignty, ceded indeed by these states to the United States; and whoever issues anything intended to circulate as money, whether it be coin or paper, usurps the exercise of a sovereign power of the state. This principle has been recognized and enforced in the restraining acts of almost all, if not all, the states.

Having thus prepared the way for the main question, the great principles of the restrictions will be now briefly referred to, and but briefly, because an extended exposition of them would be of far too great a scope for the limits of these papers.

Since the days of General Jackson's second presidency the American Democracy has been devoted to uncompromising hostility to the whole paper-money system. No article of their creed is more defined or more firmly rooted than this uncompromising hostility to the corruptions and injustice of the bank monopoly. And no other thing in all his long life of benefaction to the American people has more justly or more profoundly endeared to their hearts the hero-statesman than the impetus he gave to public opinion against the

accumulated evils of the paper-money system. To argue this question as a question of democracy would be needless, for it is a prominent corollary of the Democratic principle, well settled in the minds of all true Democrats; but as many claim the name without concurring in the faith, some exposition of the principles of the Democratic creed may be here advanced.

Money is the medium of exchange; but it has not, any more than any of the commodities for the exchange of which it is used, any fixed, certain, stable value. The relative value of money, like the relative value of all things, depends upon its plenty or scarcity—is regulated by the demand and supply.

As the supply of the precious metals has increased in a greater ratio than the necessities of commerce for money, money, although remaining at the same nominal value, has depreciated in its actual relative value. This is particularly observable since the discovery of the gold and silver mines of America.

If the supply of the precious metals coined into money should be at once doubled, the relative value of money would be diminished one half, because the increase would double the ratio of money to all other commodities.

To issue a given value of paper money in addition to the metallic money in use is in fact to increase by so much the supply of money, because so long as the paper circulates as money it is money to all intents and purposes.

To issue paper money to a given proportion of the metallic money in use is therefore to depreciate the value of money in half that proportion. If paper money be at once issued to an equal extent with the metallic money in use, the relative value of all money is depreciated one half; if the issue of paper money be equal to one half of the metallic money in use, the depreciation is one-fourth.

It is upon these principles that in times of very plentiful supply of money we find all property rise in nominal value in dollars and cents—not that there is a greater demand for property, or that property has increased in value, but because money has depreciated in value. So when money is scarce, we find all property of less nominal value—not that it has decreased, but because money has increased in value.

The power to issue paper money not based upon specie, dollar for dollar, is therefore a power to depreciate the value of money; the power to issue and recall paper money at will is a power to increase or decrease the value of all property in all men's hands.

It is a power to flood the country with money and with the consequent extravagance of speculation, as happened in 1835 and 1836;



and it is a power to recall excessive issues and create panic and disorder in all branches of business, as it was used by the United States bank about 1833 and 1834. The president of that institution well knew and unscrupulously used the terrible political and financial power of "expansion and contraction," the "elasticity of the bank medium."

It is a controlling power over all trade and commerce to expand them to overaction or to prostrate them in depression. It is a controlling power over the industry of all men, because every branch of industry is affected by its expansions and contractions. It is true that the banking power of contraction and expansion cannot always be exercised with impunity against the laws of trade and the course of business; but when banks break by undue exercise of this power the loss falls upon the public; and the iniquity of the power is none the less that it involves the ruin of the bank with the loss of the bill holders and the derangement of trade.

Democracy takes its stand against this power as unjust, impolitic, tyrannical.

Capitalists lend money, but banks lend only their credit. By the privilege of issuing their obligations as money, they receive interest for their credit as others receive it for their property—a dishonest and hazardous monopoly. Founded upon a dishonest principle, all banking is dishonestly pursued. The history of banking in the United States is the history of one continued fraud upon the rights of the public. It is estimated that the loss of the people of the United States by the depreciation of bank paper from the Revolution to the War of 1812 was greater than the whole cost of the Revolutionary struggle and that their losses since by the same source would more than pay the cost of the last war.

It is indeed a most rare thing for a bank to go out of existence and promptly pay to its actual bona fide bill holders the full value of its circulation—so rare that if it ever happened, the writer remembers no instance, while he has before him the history of hundreds of banks which have each ruined thousands in their dishonest failure.

In the West, with perhaps the single exception of the bank of Missouri, every bank yet established long enough to undergo the test has either utterly failed or suffered its paper greatly to depreciate. The history of the three banks of Illinois, of scores of Michigan banks, of the Wisconsin bank, the bank of Dubuque, etc., etc., can hardly be forgotten. There are peculiar reasons for the short lives of western banks. The balance of trade is constantly against them, and they have no remote region where they can scatter small



bills as the eastern banks do here, in the hope of a remote return for payment. Here, too, when all are borrowers and none lenders to any extent, the assets of a bank are more speedily and greedily absorbed by its officers than happens at the East. The whole system is the credulity of the many for the benefit of the few. It is a grand device whereby men may accumulate large fortunes without adequate capital and without any production. It is one of the false plausibilities which have been palmed off upon the faith of man that a few might flourish upon the present faith and ultimate loss of the rest.

But it is said that bank issues may be secured. The answer is that nothing but specie, dollar for dollar, can really secure bank issues, and that would afford no profit to the banker for his issues. Mortgages were twice tried as securities for bank paper, first in Michigan, and then in New York, and notoriously failed on both trials. Now New York is trying state and United States stocks, and that is said to be the very perfection of banking. But stocks may depreciate, and New York has found it in the case of banks whose issues were secured on the stocks of Illinois, Arkansas, etc. And even as now required by her laws, the stock securities may fail by a thousand contingencies. For example, suppose a ten-year war with England to break out tomorrow or next year. Down would go stocks of all kinds, and down would go scores of New York "safe" banks, to the ruin of thousands of their credulous bill holders.

Besides all financial reasons there are most weighty political objections against banks. Money is power, and a great power; and the concentration of the money power in banks creates a great political power. Pennsylvania was corrupted by the presence of one vast monster monopoly; New York was controlled in its politics for years by the association of safety fund banks; and the United States Bank waged equal war for years with the whole power of the United States, in which it was ultimately foiled only by the indomitable purpose and universal popularity of one man; a less than General Jackson in firmness or in the confidence of the country would have failed, and we should still be ruled by a great "regulator of the currency." Great as are the financial evils of the banking system, the political dangers are infinitely greater.

But men say that we cannot do without them—why or wherefore they do not tell us—but still they say we cannot do without them. Remember the days of the United States Bank; remember that the same men or men of the same views then told us that we could not do without a United States Bank. Dispense with its corrupt presence

in our system, they then said, and the currency will be disordered, exchanges deranged, business crippled, prosperity checked. In fine they foretold ruin, all ruin, and nothing but ruin. The United States Bank died insolvent, and all business and business relations have profited by the demise of the old mother of harlots, as will it be one day, on the demise of her financial bastards.

Let us be the first, let us be the foremost, in this great reform. And when hereafter men point back to the last act of the great drama of "Man and Money," the first act of which was the abolition of the United States Bank, with the exultation with which they point back to that, let it be remembered of Wisconsin that she was the first state to free herself by constitutional prohibition against the corrupt and corrupting presence of the system. Let us remember that it is far easier to prevent than to cure an evil. Let us remember that many of the bank ridden states would most gladly free themselves from the evil, if they could, and would deem themselves free indeed, if, like us, they had only to prohibit banking as an evil having yet no foothold amongst them. Let us not forget that the most enlightened advocates of banks admit the original evil of their establishment and argue for them only that they are an incurable disorder from which we cannot free ourselves.

False in its pretensions, injurious in its most legitimate operations, ruinous in its almost invariable ultimate bankruptcy, a financial disorder, a political corruption, a monopoly of fraud—the system of paper-money issues claims no favor or sympathy from a state of exclusive, simple, free production. We shall have no Astors nor Girards, and we want none; but we will have a hardy and independent race of farmers needing no fictitious facilities and tilling a soil free from the banker's lien, which rests like an ill vapor over so many thousand homesteads in the bank states.

The distinct subject of the sixth section will be considered in a separate paper.

## THE CONSTITUTION—No. 10

[March 24, 1847]

### THE SIXTH SECTION

When the restrictions against banks were under consideration in the convention the opponents of them urged one argument of much force. "If we are to have no home banks," they argued, "we shall be flooded with worthless small bills from the banks of other states, on which our people will be unable to obtain the specie, the solvency of

which our state authorities will not be able to regulate or enforce, and which will be constantly depreciating on our hands." There was considerable reason in the argument,—the sixth section was proposed and carried the bank article.

Now the opponents of the bank article say little of the restrictions against banks, but devote almost the whole force of their argument against the exclusion of small bank notes of other states. Had the sixth section been omitted, we should have heard the same arguments against the restrictions used in the convention; being out, our opponents would have urged its principle as a necessary feature of the article; being in, they assail it almost alone.

The whole resolves itself into this: They want banks and are afraid or ashamed to say so. And this is not only the main issue on this article but the main issue in the adoption or rejection of the constitution—banks or no banks.

And we find loudest and most prominent in the denunciation of this article on this lake board those who have paid out all sorts of depreciated paper to the producers of this territory for their produce; and more than one prominent scribbler against the bank article has been in other states deeply implicated in some of the most outrageous bank frauds ever perpetrated in the West. It is an invariable law of currency that the worse circulation will drive out the better. Eastern bank bills will drive out specie; western bank bills will drive out eastern; small bills will drive out large bills; the worse will always drive out the better. Four or five years ago a very large proportion of the circulation on the lake board of this territory, perhaps seventy or eighty per cent, was specie; now there is not perhaps five per cent. Year after year an abundance of specie was brought here from the East; year after year large quantities were disbursed here by the United States. An abundance of specie, enough and more than enough to fill all the smaller channels of circulation, was here and was constantly coming; but it has been driven away by small bank bills. It has found its way to the vaults of banks which have replaced it here by issues which will never be redeemed in full. Many of the banks making these issues have already broken, and all are on the same road—the ultimate destination of all bank issues—depreciation. And this upon a principle well settled, that paper and specie of the same denomination can not circulate together to any extent. The paper may be as "convertible into specie" as you please, but the paper will drive the specie out of circulation because the worse will always drive out the better.



This experiment has been fully and fairly tried. During the great French wars in the year 1797 the Bank of England suspended specie payments. Before that time that bank could make no issues under five pounds sterling. But in the act legalizing its suspension authority was given to it to issue notes of one pound. The sovereign, the specie pound, and all coin of greater value wholly disappeared from circulation. In 1821 the bank resumed specie payments; but the power to issue small bills was not recalled until 1829. The sovereign still remained banished from circulation.

It was argued there and then by the anti-Bullionists, as they were called, that paper convertible into gold was as good as gold itself and that it would be impossible to do without the small bills. This doctrine passed current for a while and was followed by two consequences: First, the great commercial and financial panic of 1825, caused by the overissues by the banks of paper which was convertible but never converted into gold; and second, by the fact that from 1800 to 1829 the average value of the gold sovereign in paper was twenty-five shillings sterling, its par value being twenty.

In 1829 these evils called for the interposition of the British Parliament, which abrogated the small bill law. Upon that occasion the most eminent living English statesman used this emphatic language: "Experience has proved the fallacy of a theory which stated that a paper currency was perfectly safe as long as it was convertible into gold and silver. Experience has proved this theory not to be true. It has likewise proved another theory not true—the theory that one pound notes and sovereigns could circulate together."

Another statesman made this remark—that those persons who considered paper money as an excellent thing to be established in a country he was disposed to view as heretics. The superstition attached to paper money was the most dangerous heresy of all heresies.

Such opinions were endorsed by Huskisson, Grant, King, Liverpool, Wellington, and many other distinguished statesmen, after a fair and impartial trial of what they considered an almost wholly paper currency, the lowest denomination of which was \$4.84.

After the small bill law was thus abrogated small bills disappeared and were replaced in just proportions by large bills and specie; and all channels of trade and currency worked far better under a restriction of paper money to the denomination of \$24.20 than they had done before under issues of \$4.84; nor did money become perceptibly scarcer under the change. The banks had so much the less specie in their vaults; the community had so much the more specie in use.

In 1833 New York tried the experiment of suppressing the circulation of small bills. This was there a great undertaking against the vast power of the banks in that state, which of course did all in their power, directly and indirectly, to resist and embarrass the reform. The banks of neighboring states, too, fearful of the spread of reform, contributed all they could to defeat the trial. But in the main it worked well; all small bills were not in all places excluded; but the proportion of specie circulation was very greatly increased, and everything promised a most successful reform in the currency of the state, when sufficient time should be given to the experiment. In less than four years, however, in 1837, came the general failure of all the banks in the United States; and an experiment of reform, which was working admirably as it had done before in England, fell under the general evil of a paper circulation legally as well as actually irredeemable.

In the West our circulation is miserable. Six months ago every honest business man would have admitted the necessity of some reform in it. It is composed almost exclusively of very small bills, and as a general rule we have no large bills and no specie except the denominations less than a dollar. In other words we have just specie enough to fill the channels of trade less than one dollar; the circulation of the dollar bill virtually drives out all specie of that or higher value.

Banks to the eastward make a regular business inflicting upon us an unredeemed and irredeemable circulation of small bills. If they sent out large bills these would answer our merchants as remittances and find their way back in the course of trade; but their western circulation is almost exclusively of small bills, which of course are much more slow in finding their way back, and which have replaced and are replacing the specie circulation which year by year comes and came here from abroad but is absorbed by the banks in lieu of their paper—an exchange full of profit for the banks and full of loss for us.

There is no year passes over our heads which does not witness the failure of one or more banks whose issues have been recently paid for the produce of our territory. These losses fall almost exclusively on the producing classes. The merchant who handles much money, who has his correspondence and other sources of financial intelligence, who knows the banks in their various gradations of responsibility, who is constantly advised of what banks are good, what doubtful, what bad, who has hourly the opportunity to retain the better and throw off the worse of his paper funds, the merchant,

trader, or speculator suffers little by the breakage of banks. It is on the farmer, the mechanic, the laborer, the producer, generally, that the weight of loss falls. Handling comparatively little money, having from the very nature and necessities of his vocation little minute acquaintance with the infinite and constant fluctuations of bank paper, the laborer can not foresee the storm, and it falls upon his head unprepared and unannounced; the shrewder and better informed dealer has escaped at his expense. Take an example. Not long ago St. Clair money was paid out on this lake board for wheat until and, it is believed, even after the actual failure of the bank in Detroit. Who lost? The speculators who exchanged this worthless fraud for the valuable production of the farmer? Not a dollar; they foresaw the crash and stood from under; the loss fell upon the thousands of farmers' pockets through all our grain counties.

Another noticeable effect of the circulation of small bills is this: there is no convertibility into specie in trade to sufficient extent to test the comparative soundness of the paper circulation. When men have only to change larger paper into smaller paper, and there can virtually be in all ordinary dealings no exchange of paper into specie, there is no criterion of depreciation. A merchant will now change a bill which he knows to be doubtful and believes to be worthless because he exchanges for it similar trash.

These views are neither original nor ultra; and in the very bible of the bankers, the very work on political economy on which they found their whole theory, the principle of the sixth section is to be found, admitted, and affirmed. In Joplin's history of the currency question he gives an analysis of Adam Smith's views of banking as laid down in the *Wealth of Nations*. There we find the following proposition: That he would prefer the circulation between consumers, or what might be termed the consumptive circulation, to be metallic; but that he thought it a great advantage for the circulation between dealer and dealer to be paper.

The very principle of the sixth section; the average of the dealings of the noncommercial classes amongst us are under \$20, often, however, reaching and exceeding that amount; the average transactions between dealers is of much larger amount. The sixth section would gradually through a period of three years exclude the circulation of paper money under \$20, thus filling all the channels of trade below that sum with specie on Adam Smith's precise principle. The action of this exclusion would be found in driving out of circulation the present chaos of small bills, eastern and western, good, bad, and



indifferent, and replacing it in such proportions as the laws of trade would require, partly with specie and partly with large bills.

This would be an ample protection of the producing classes, and the trading classes can always protect themselves. It would also have this excellent effect: it would not only restore specie to the smaller channels of trade, but it would correct the paper circulation in the larger channels of trade. Bills of \$20 and over would then be exchanged, not in small bills, but in specie; and the same ruinous facility of taking and passing worthless paper could no longer be sustained; the "idoltrous faith," as a great man called it, in every engraved promise to pay would disappear; and the best only of paper money of any denomination could circulate.

But the very men who argue that paper convertible into specie is as good as specie itself tell us that if we banish paper we shall have no money. Nonsense; if such paper as we get is as good as specie, specie can come instead, for its goodness depends on that—that you can get the specie for it; if it be not as good, that is, if the specie cannot be got for it, it is a fraud on our rights of property to bring it amongst us at all. But whenever there is property of commercial value in market for sale, currency will there come to purchase it; the laws of trade, immutable and certain, fix that. If the seller will receive depreciated paper, such will he get; if he refuse that, the laws of trade will ensure a good currency, paper or specie, or part both, just as the seller requires. We raise no more wheat than there are mouths to consume and purses to purchase; we will always be able to sell it; if we take small bills, small bills only will we get; if we take all paper, paper only will we get; if we insist on specie in whole or in part, such also will we assuredly receive. So long as our produce is of a certain commercial value, so long will a currency find it out; but we will always receive the worst currency of which we will accept.

What will ultimately pay for our present crop? The millions of specie daily arriving at the seaboard from Europe. What will we get without the sixth section? Ohio, Michigan, Indiana, and western New York bills. Why so? Because the great New York bankers, knowing that we are willing to be duped, will retain the specie sent to purchase our crops and send us the most worthless currency of which we are willing to accept. If our law inform them that this fraud cannot be practiced upon us, the specie sent to them for the express purpose of purchasing our crops will be forthcoming to purchase them; and the only difference will be that the New York bankers will not make a fraudulent profit out of our blind idolatry of paper money.

If we had adopted this provision four years ago, its simple operation would have been to retain the specie here and coming here; even now one of its chief effects will be simply to retain among us the flow of specie which naturally accompanies our emigration.

In the western portion of this territory the miners and farmers, often bitten by the depreciation of bank paper, got together in precinct meeting some years ago and unanimously agreed to take no more paper money. What was the consequence? Was it the failure of all currency to seek their productions? No such thing; sustained by no law but the simple force of public opinion bank paper has been in a great measure driven from amongst them and has been replaced by a specie currency. At this day from seventy-five to eighty-five per cent of their circulation is specie, and they have no paper money of any consequence, except Missouri, which issues nothing under \$10. Producing a greater value in proportion to their population than we do on the lake board and lying on the very line of a state which produces the same commodities and sells them for paper the mineral district of Wisconsin sells all its productions, mineral and agricultural, for a currency of a greater proportion of specie than the sixth section would necessarily require. Missouri, too, with all its vast production of mineral, grain, and tobacco, has no circulation of paper under \$10.

But it is argued that this section will not be sufficient to banish small bills altogether. Grant it, for the sake of argument; if it banishes five per cent only of our small bills and replaces it with specie, it will be a great reform. But sustained by public opinion it will do all its friends expect of it. We will admit that no restrictive law will operate efficiently, unless sustained by public opinion. If the universal judgment of the people be against the sixth section after it is adopted, it will be inoperative; but once adopted and put in practice it will gain golden opinions of all. This is the fear of the bankites; this is the fear of those who borrowed St. Clair and such money, paid it out in thousands for our crops, and bought it back of the farmers at twenty-five and fifty cents on the dollar, to pay their debts at par to the banks. Hence their reckless and expensive ardor to resuscitate the "idolatry of paper money," convertible, but never to be converted into specie.

Such men persecuted Andrew Jackson and the specie circular. Such men are always thrown into ecstasies of horror, when any attempt is made to restore specie from the banks which owe it to the people who own it.

## THE CONSTITUTION—No. 11

[March 24, 1847]

The article next in order is No. 11, on internal improvements.

This article is of an essentially kindred character with that on banks and will in all human probability share the same fate as the latter if the bankites should succeed in saddling us with the iniquities and corruptions of bank power.

The history of internal improvements in the various states is familiar to all, and the less need be here said in defense of the restrictions of this article, because whatever may be the secret hostility of the bankites to it—and it is undoubtedly great—their fears of the public feeling teach them to mask it under an appearance of zeal against the rights of woman, the exemption, etc., etc. Some brief explanation of the principles on which it is founded, however, will not be amiss.

Experience has shown in the history of all states which have embarked as states in works of internal improvement that corrupt influences have shared largely with views of public utility in most undertakings of the kind; that the cumbersome and corrupt machinery of state agency constructs works of this character at a lavish excess of expenditure, greater by twenty-five to seventy-five per cent than private energy and economy would conduct them; that the presence in the state and the influence on its finances of a vast staff of disbursing officers and other well-paid officials, with an army of plundering contractors, who all regard the public funds devoted to works of internal improvement as fair plunder, is a great political and financial evil; that the public debt thus contracted has ever, except perhaps in a solitary instance, far more than overbalanced the advantages of any work; and, finally, that all such undertakings are far better and more safely left to private sagacity, private economy, and private enterprise. Look for the verification of these truths to Illinois, Indiana, Michigan, Arkansas, Pennsylvania, etc., etc.

The zeal of every people for the advancement of their state interests and the development of their state resources, misled by politic and interested schemers, has in all the states in some season of speculation proved too great a temptation for their prudence; and experience has proved that constitutional restriction is the only safeguard. Accordingly this article, while it declares that the state shall encourage internal improvements by individuals and



corporations, provides that the state shall itself never carry on such works, except when grants are made to aid some particular work, and then it can only exhaust the proceeds of such grants upon the work and shall in no case incur any debt or liability on behalf of the state in the construction of any such work. Finally it devotes to the school fund all lands accruing to the state, except when granted for some other specific object, which in other states have gone generally to works of internal improvement.

Little as is said about this article, it is a vast and most righteous reform; it did not pass the convention until after a long and doubtful struggle and if now rejected will be very doubtful of finding its way into the next constitution. It is too pregnant with the economy, purity, and simplicity of state government to be without its strong and influential opponents amongst that class which prowls round the skirts of every state, living and growing rich upon the public spoils in some shape, and which have already plunged us in our little territorial government into a considerable debt to their great private benefit.

Next in order we find article No. 12, on taxation, finance, and public debt. This article again is kindred to the last and contains a series of most wholesome provisions which can only be briefly noticed here. A summary of the most important is deemed a sufficient exposition of the article.

All taxation shall be equal.

There shall be no state debt, except to repel invasion or to suppress insurrection, exceeding in the whole at any one time \$100,000, a sum about equal to half a day's work of our whole people and which may occasionally be found necessary for public buildings, etc., etc.

For extraordinary objects of expenditure such debts to \$100,000 in the whole may be created by law for specific object; such law shall pass only by the votes of two-thirds of all the members of each house, and such law shall provide an annual tax to pay the interest and a tax to pay the principal debt in five years, which taxes cannot be suspended until the debt shall be paid in full—an admirable restraint upon the power of creating debt even to the small amount of \$100,000, by duping the people into the false belief that they will never have to pay it, as has been so often done.

There shall be no state scrip issued in any case to pay the public creditor at a discount and disgrace the state by putting its obligations in market at a depreciation; but the state shall provide each year by tax for the payment of its expenses in cash, and if the amount

raised should in any year fall short of paying the state expenses, the deficiency shall be raised in the next tax and paid in cash. An admirable rule—the golden one—to pay all in full, to owe no man anything.

Where a public debt is created, as before explained, it shall be by bonds of not less than \$500 each at interest, which shall not be sold for less than par, redeemable in five years. If such a debt should ever be created, Wisconsin stock will stand above all state stocks in all markets and will redeem the character of western faith. The money arising from all loans shall be strictly applied to the purpose for which it was obtained, or to the payment of the debt, and to no other purpose whatever.

A most admirable article, pregnant with the justest and purest reform; taken with that on internal improvements and banks it disenthalls the state from all the corrupt and corrupting influences of the money power and insures to every man that his property can never be mortgaged nor his daily bread taken out of his mouth, that speculators may revel in all the abominations of bank frauds, internal improvements, and state debt. Beware of all who preach up a judicious system of banks, a judicious scheme of internal improvements by the state, and a judicious state debt. Such are the men who in other states have and in your state would luxuriate in judicious wealth judiciously plundered from the masses by these judicious frauds on public credulity.

Next in order comes article No. 13, on the militia.

This article follows the routine of the majority of the state constitutions and needs no especial comment. It simply provides for the organization of a militia, which is essential, and which with us will probably be in time of peace a mere enrollment.

This brings us to an article about which there has been much misrepresentation and much misapprehension—No. 14, on the rights of married women and exemptions from forced sale. Both of these subjects have been made the object of much attack, but it is daily becoming more obvious that the hostility to the constitution is not to these provisions and that the denunciations of them is a masked battery against the articles on banks, internal improvements, state debt, and the destruction of the trade of office-holding to be found in the miscellaneous provisions. Both subjects belong more properly to the municipal than to the constitutional law; and the writer has always greatly regretted their presence in the constitution, to embarrass the more legitimate objects of constitutional provision. The subjects will nevertheless be fairly discussed and as they

are entirely distinct will be separately considered. And first in order will be examined the section on the rights of married women.

This provision has obtained both from its advocates and its opponents an importance which is wholly adventitious. It simply provides that the property belonging to the wife at the time of marriage or coming to her after marriage shall be her separate property; that laws shall be passed providing for the registry of the wife's property and more clearly defining her rights thereto and for carrying out the general provision; and that the separate property of the wife shall be liable for her debts contracted before marriage.

The common law, which prevails in almost all the states, allows a married woman no property in use. The husband by the fact of marriage takes an estate in all property which she has at marriage or afterwards receives. If it be real property, he takes a life estate in it; that is, has the use and income of it during their joint lives and in some cases for his own life if he survive the wife. If it be personal property, he takes the absolute ownership of it at once and forever.

The common law, however, abounding in evasions of its own provisions, furnishes a mode and manner of totally doing away its rule on the property of married women. All property, real or personal, belonging to a woman prior to marriage may in anticipation of marriage be conveyed by her to trustees, in trust to hold it for the wife during her marriage or coverture, and to permit her to use it as her separate property, free from the control and not subject to the debts of her husband. So of property bequeathed or granted to the wife after marriage—it may in like manner be vested in trustees for the separate use of the wife. These operations in evasion of the general principle are in daily use where the amount of property warrants it, and the cir- [newspaper mutilated]. A notable instance may be found in the will of Mr. Jefferson, in his bequests to one of his married daughters. In such cases the wife and the husband enjoy substantially together if they agree; if they disagree, the wife absolutely controls; in no case can the property be held liable for the debts of the husband.

By this evasion of conveyancing and this machinery of trustees a wife may now at common law hold all her property, real and personal, as her separate property, just as this section provides she shall. The only difference is this: what may be now done by the machinery and at the expense of conveyancing may be done under this section by simple registry of the wife's property, as the legislature shall direct—an alteration of the law in the judgment of the



writer too unimportant to merit a place in our organic law and far too unimportant for the discussion of which it has been made the subject.

But it has been objected that this section places women on the footing of the civil law. This is a very great mistake. A simple explanation of the general provisions of the civil law will fully verify the error of this objection. By the civil law a wife's general civil rights remain the same after the marriage as before. By that law a married woman may, as at common law a single woman may, engage in business on her own account—trade, deal, contract, incur liabilities, hold her own property, real and personal, dispose of her own income, own her own earnings, sue and be sued, and be in every respect a separate legal person from her husband, who is in no way liable for her debts beyond her maintenance, and in no way entitled to control her business or to share her income or property. The section under consideration adopts no such law.

The truth is there has been a great misapprehension and misapplication of arguments urged in the convention against the adoption of this section. Some of the friends of the provision in that body in arguing the question asserted a preference of the civil over the common law. On the other hand, some of the opponents of the provision debated against it on the ground that so strong was the rush of opinion towards it and such were the arguments in favor of it that they feared it was a first step towards the adoption of the civil law and would be followed by a full adoption of all its provisions on this subject, and then and on that footing contrasted the two systems strongly together in favor of the common law. The vast majority of the convention voted for it with an exact understanding of its actual scope and without any desire or design to approach the civil law. Now these arguments are perverted by ignorance or design against the provision, as if it were the civil law itself, while the very jealousy with which the provision is received and the obvious and overwhelming hostility of men's minds against the civil law is a sufficient answer to the force of the arguments used against the provision in the convention. Educated from generation to generation in the common law, no step with us can be a step towards the civil law on this subject; the people will take it just as it is, as a simple dispensation of the machinery of conveyancing for securing to those who desire it the wife's separate right to her separate property, and will follow no step further.

But it is said there will be frauds. Doubtless there will be such under this section; certainly there are such under the present law.

Law cannot prevent fraud; it can only afford remedies against frauds; a creditor's bill, now or hereafter, under the constitution, will reach all such attempts.

It is said that Tom, being married and embarrassed, may convey his property to Dick, Dick convey it to Harry, and Harry to Tom's wife, in fraud of Tom's creditors. So he may. But without this provision Tom may as well convey to Dick, Dick to Harry, and Harry to John Doe and Richard Roe, trustees for Mrs. Tom. One fraud is as easy as the other; and it is in either case a skein of fraud easily unwound by judicial proceeding.

And here we leave a section, which, like a man in the pillory, occupies far too much attention and has wasted upon it an infinite disproportion of the missiles of denunciation and misrepresentation. When a man objects to the constitution on this score, look further for his motive. This is his mask; look under for his face.

#### THE BANK PARTY

[March 24, 1847]

That the opponents of the constitution have fully identified themselves as the bank party is now beyond a doubt. Not only do the bank Whigs cheer them on, but they applaud at their meetings, join them in their councils, rejoice at every shadow that looks favorable, and call them their own. There is no disputing the fact. The Whigs rejoice in this defection from the Democratic ranks because they hope to secure the antis and they believe they will. They do not hope to make Whigs or conservatives of the Democrats in favor of the constitution, but they do of those opposed to it. We hope they may be mistaken in this, but we are inclined to think they will secure some of them either as Whigs or conservatives, which only means bogus Whigs. In Milwaukee the Whigs are delighted beyond measure and look upon their party as strengthened by this move and, although they see plainly that there is and must be a large majority against them, yet they feel gratified at the hope of gain and keep in excellent humor, while the poor antis there as well as here feel uncomfortable with their new associates—feel bitter—not at home—gone.

In this county a self-styled Democrat and a Whig have been speechifying together against the constitution and have both of them been going it in favor of banks. On the part of a bank Whig this is all very natural, but how a Democrat can be in favor of banks we do not see. There are many Whigs in this territory opposed to

banks; there are many such all over, and indeed before the convention you could scarcely find a man in favor of banks. Now you may find plenty, and there is not so much anxiety on the part of the Whigs now to favor banks, as on the part of the anticonstitutional Democrats. That the banks are all the leading opposers of the constitution (generally) care for is becoming more evident every day; is avowed by many; is argued even in public. It is on this alone the fate of the constitution depends. Let us then look a little to it.

If banks are wrong in themselves, bank bills must be, and if we ought to have the latter, we might as well have the former. If we are to have a paper currency with all its acknowledged disadvantages, why not have some of the advantages? Why not let our people have the earnings of the banks as well as the loss by bank paper? Why not have bank bills of our own, that we can hold in some check, rather than those of foreign banks that we cannot control? You have many of you read Mr. Richmond's pamphlet on banks, wherein he attempts to show their advantages. Do any of you see in it a word about the evils of this system? Mr. Richmond bought wheat here with St. Clair bank bills; the bank went down; the bills were worthless and the farmers lost not ten cents on the bushel, but the whole value. You see nothing of this, do you? No. But the wheat speculators did not lose by this, did they? Oh no; and that is the reason why you hear nothing of it. Did Mr. Richmond think this bank a good one? We imagine not. We imagine no merchant here did. They took the bills because it was the currency of the country, but they did not care to keep them. They did not want to salt down that money and therefore it went among the farmers. It always must be so. Money that is doubtful will always be thrust upon the farmers and the poor, while the better currency is salted down by the merchant. You need not blame the merchant for this. It is his interest. He knows what money is the safest and what money is the most unsafe. He will of course keep the former and circulate the latter. This is natural.

Another thing is to be considered. A failing bank is more ready to give discounts than one in good credit. It will give them at a less price. It will exchange its bills for the bills of banks in good standing and give boot. Now if the wheat buyer can make money by this, will he not? The bank may live by it, may get through its difficulties—and may not. The wheat buyer knows he can do well by it. If he can buy a bushel of wheat for a dollar of a bank that he believes about to fail he will do it. He does not care so long as he can get rid of the money. Why should he?



In this territory you have tried banks. Where are they? Where is the bank paper? What is it worth? You have had paper from other states brought here and dealt out liberally, and shortly after the banks have failed. The farmers have lost much; the laborers have lost much; the merchants have lost somewhat. Do you want thus to lose more? Do you want more St. Clairs, more Mineral Points, more Dubuques? If you want such bills, you can doubtless get them, and should a crisis come, you would certainly have enough of them. Suppose now a crisis should come and the banks at the East should, as they have done before, stop payment. Which do you think would be better off—you here, or the people of that part of the territory where specie is the circulating medium? You feel that you would be distressed to death, while they would be but little annoyed.

It is said that if small bills do not circulate, large bills cannot. Large bills will not circulate as currency; they will be used more as bills of exchange; and if they exist here at all they will of necessity be as safe as bills can be, for they will exist for the convenience of the merchant, chiefly, who knows pretty well what banks he can trust, and they will not be here unless they can be at once converted into specie, for otherwise they would be useless.

But it is said that the denial of bank bills will lower the price of produce. Why should it? It cannot unless the bank bills are not as good as specie. If you refuse bank bills for your wheat, you will get specie, perhaps, not so much by one per cent or, at the outside, two cents a bushel, but you will get good money. And now what do you get? Money you cannot trust, in the first place, for fear of the failure of the banks, and money in the next place that is from two to five per cent below par. So you will be no loser then.

But it is said the merchant will take this money for his goods. So he will. But do you suppose he does not charge a profit on his goods to make up for the difference in the value of bills? Of course he does or else he is a fool. He can't pay his notes at New York with Indiana money, and he of course puts on a price so as to cover the difference between specie and the worst money he takes. If he gets better than the worst money, the difference is clear gain to him. All differences are clear losses to the farmer and laborer.

SELECTIONS FROM THE MILWAUKEE *SENTINEL AND GAZETTE*

## FREE SUFFRAGE

[December 23, 1846]

The treatment which this question received at the hands of the late convention is in striking contrast with those professions of Democracy so vauntingly and frequently put forth by some of the "progressive" leaders. It is known that a majority of the convention voted to submit the question of free suffrage directly to the people. This proposition became of course a part of the instrument which was to be presented to the qualified electors of the territory for their adoption or rejection. But this did not suit the notions of some of the "patent Democrats" in the convention. Accordingly, a day or two previous to the adjournment Mr. A. Hyatt Smith of Rock County, the attorney-general of Wisconsin, moved that the free suffrage article be engrossed on a separate piece of parchment and signed only by the president and secretary. For one, he said, he would not sign the constitution if that article were on the same piece of parchment, although one of the majority who had voted to submit that question to the people. A majority was found to sympathize in Mr. Attorney-General Smith's narrow prejudices, and the article was accordingly directed to be separately engrossed. We think this proceeding one of the most discreditable of the many discreditable acts which have brought the convention into popular contempt at home and abroad. It was tantamount to saying to the people, "We have submitted this question of free suffrage to you in the hope of thereby disarming the opposition of those who think that the color of a man's skin should not any more than the place of his birth or the amount of his property determine his right to vote; but at the same time we mean to place such a brand upon it as shall mark our hostility to the very article which a majority of us have adopted!"

## PRACTICE VERSUS PRECEPT

[December 23, 1846]

We have had frequent occasion to show up the glaring inconsistencies of which our late convention was guilty, but their last act was the most impudently inconsistent of all. It will be remembered

by those who have glanced over the articles as successively adopted by the convention that at the close of the one relating to the duties, tenure, and compensation of the different state officers is the following stringent provision against extra allowances: "Section 4. The legislature shall not grant or allow to any officers named in this article any extra compensation under any pretence or in any form whatever."

This provision, intended to guard against an abuse which has become sufficiently flagrant in some of the older states, received a practical commentary from the convention which renders it a fair question whether when they adopted it they were in jest or in earnest. On the last working-day of the session a majority of the convention, in direct and impudent violation of the spirit of the article above quoted, and by a palpable and wholly inexcusable usurpation of power, voted to raise their own compensation fifty cents extra a day. Having just enacted constitutional provision against the grant of "extra allowances" by the legislature under any pretence whatsoever, they themselves set the first example of trampling it under foot for the pitiful consideration of fifty cents extra per day, apiece! There is reason to hope, indeed, that the members themselves will profit little or nothing by this attempt to pluck the public goose. The Attorney-General has given it as his opinion that while the certificates made out at \$2.00 per day are receivable in payment of territorial taxes and are therefore worth nearly par, those made out at \$2.50 (with the "fifty cents extra" tacked on) are not so receivable, and of course their value in the market is no greater, if indeed it be not less, than that of the legal certificates. And herein is shown more clearly the wrong of this transaction. The \$2.50 certificates are sold by the holders to a few speculators in such kind of "rags," who are buying them at a heavy discount. Probably the members who thus illegally and impudently voted themselves this "extra compensation" will not net over \$1.90 or \$2.00 for their \$2.50 orders. But the people will have to pay the full price of these certificates or else repudiate. This is the only alternative presented to them. Nor can there be a doubt which course they will choose. Although the members of the convention could so far forget their obligations as wrongfully and without color of law to vote themselves an extra compensation and pay themselves in territorial scrip, the people, whose good name they have fraudulently used to give value to this scrip, will for that name's sake redeem those illegal issues, taking good care, however, to mark and remember the faithless servants by whom they were put forth. Will the *Madison Express* publish the



yeas and nays on the adoption of the fifty cents extra compensation, that we may hold up to the public remembrance and reproof the authors of those illegal certificates and the violators in advance of section 4, article 5 of the constitution of their own adoption?

#### A ROW IN THE CAMP

[February 2, 1847]

A call appeared in our paper of Friday last, signed by one hundred and twenty Democrats of this city, inviting a public meeting to take into consideration the project of a new convention in the event of the rejection of the present constitution. The mere appearance of this call produced a terrible commotion among the wirepullers and whippers-in of the party, and measures were immediately taken to prevent, if possible, any expression here which might give the lie to the statement so industriously circulated by the friends of the constitution that as this was a "Democratic" instrument, all true Democrats were going to support it, and none but Whigs opposed it. Accordingly, at seven o'clock on Saturday evening some three or four hundred persons assembled in front of the council room, but as the key had been hidden, or abstracted, it was some time before they could get in. After a while, however, the door was forced open, the crowd rushed in, and the play began. The friends of the call and of the object of the meeting nominated Dr. Noyes to preside, and the question having been put and declared carried, Dr. Noyes assumed the chair. Meanwhile, those who had come to break up the meeting or, at any rate, to prevent an expression favorable to a new convention nominated Judge Helfenstein for chairman, and that having been also put to vote was declared equally carried with the other. There being thus two rival chairmen in the field, each backed by troops of friends, a regular scrimmage ensued, in the course of which several individuals were knocked down or dragged out, and Alderman Murphy received a cut from a knife. Ultimately Dr. Noyes was hustled out of the chair and Judge Helfenstein hustled in; but the Doctor, nowise disheartened by losing the first point in the game, stood his ground like a man and became an exceedingly active floor member.

A lull having succeeded this opening burst of the tempest, Mr. Holliday rose and offered a series of resolutions, repudiating the new constitution, denying that the Democracy was identified with its formation, or committed to its support, and calling upon the legislature to pass a law for another convention. He supported these resolutions in a brief, sensible, and good-tempered speech.

Mr. Holliday was replied to by Messrs. Don Alonzo Jenkins Upham and A. D. Smith, whose great effort seemed to be to excel one another in playing the demagogue, opinions being equally divided as to which filled the character best. Mr. Upham's chief argument was that if a new convention should be held it would be composed of a majority of Whigs (a precious confession of the unpopularity of the last convention!) and a Whig constitution would be framed, "and who," exclaimed the Don, gracefully bowing till his head touched the floor, while the skirts of his coat swept the ceiling, "who would live under a Whig constitution?" Why we can tell the Don for his information that he has lived under a Whig constitution ever since he was born, the Constitution of the United States being Whig and nothing else. Following this worthy pair, Messrs. Smith and Upham, came Mr. Kilbourn in a manly, logical, and most effective speech, addressed to the reason, not the prejudices and passions of his auditors, and administering a most cutting rebuke to those who were attempting to force the constitution down the people's throats as a party question. Mr. L. P. Crary next appeared upon the stand and as this gentleman's name was attached to the call, and he was known to have expressed himself in favor of its object, it was supposed that he would follow in Mr. Kilbourn's footsteps and take ground for the new convention. But the very reverse of this happened. Whether it was that he had forgotten what side he meant to take, or (as is more likely) the habit of opposing everything Mr. Kilbourn supports controlled even his opinion and course on the present question, Mr. Crary, to the amazement of all (himself included), came out flat-footed in favor of the new constitution. After a moving introduction, in which he dwelt upon the wickedness of Whiggery, and the excellence of Democracy, and laid down the incontrovertible truth that his side of the question did not admit of common sense argument, he broke out into a highly poetic eulogium upon the constitution, closing with the words, "and I say, Mr. Chairman, in the language of the poet, 'with all thy faults I love thee still.'"

Here the audience, fearful that some accident, such as a blowup, or breakdown, might befall the speaker, interrupted him with cries of "Hold on, Crary!" "Don't hurt yourself!" "Let up!" etc., mingled with some less complimentary ejaculations, such as "Off! Off!" "Down! Down!" "Oh! Oh!" "Hustle him out," etc. Under this storm of compliments Mr. Crary sat down, and immediately

The war which for a space did fail,  
Now, doubly thundering, swelled the gale.  
And "Holliday" was the cry!

Nor Holliday alone, for Mr. Coon, rising to speak at the same moment, and it being known that Mr. Coon came charged with a "regular" speech, from the "regular" Democratic headquarters, the *Courier* office, many were anxious to hear him. Accordingly, some called for "Coon" and some for "Holliday," each party trying to down the other by their stentorian efforts. Intermingled with these cries were to be heard every little while three groans for the "Constitution!" Three cheers ditto! "Down with the Whigs!" "Hurrah for the Democracy!" with a variety of cat calls, a confusion of tongues, and a clamor of noises which would have done credit to Tammany Hall itself. In the midst of the din, Judge Job Haskell, formerly of New York City, feeling himself "at home," rose to "a point of order!" But "order" was precisely what the meeting wouldn't have and the Judge was incontinently silenced.

Meantime, while confusion worse confounded thus prevailed in the body of the meeting, the officers were endeavoring to proceed with the business. A resolution disapproving of the new convention was offered in dumb show to the chairman, put by him in the same satisfactory way, and declared carried. A motion for adjournment immediately followed and was similarly disposed of, the chairman, suiting the action to the word, slipping out of the back door and a few others who were in the secret stealing out of the front. But though the officers thus deserted, the "rank and file" stood their ground, evidently with a determination to see the matter out before they broke up. By this time, too, most of the "disorganizers" had "hollered" themselves hoarse and being no longer able to render the service for which they had been engaged were marched over to the "American" by one or two of the file-leaders and treated all round. Taking advantage of this favorable juncture and still supposing that the meeting was all one way Mr. W. W. Graham moved that another chairman (whom we did not know) should be appointed and Mr. Richard Murphy named as secretary. This done, Mr. Graham offered a new resolution declaring that it would be inexpedient to call another convention until the constitution already framed should have been acted upon by the people. Mr. Holliday immediately moved as an amendment that the Democracy of Milwaukee County were in no wise identified with the constitution now submitted but on the contrary were opposed to it, and that it would be expedient for the legislature to provide for a new convention.

Here another incipient row commenced but was promptly stilled by the new chairman, who did his duty like a man, promising that every speaker should be heard in turn if all would keep quiet. Order



having been restored by the exertions of the Chair, a brief discussion ensued in which Messrs. Holliday, Graham, and Magone took part and then, the question having been taken, Mr. Graham's motion was voted down and Mr. Holliday's amendment adopted, each by large and decisive majorities. Having thus after three hours of clamor and confusion accomplished the object for which it had assembled the meeting quietly adjourned. Just before separating, however, on motion of Dr. Noyes, they voted by acclamation "fifty cents extra" to the members of the convention (Messrs Upham, Graham, Huebschmann, and Magone) who had distinguished themselves during the evening by their arduous efforts and services in behalf of the constitution.

Such is a "plain, unvarnished" account of the meeting on Saturday. We were during the last half of the evening a "looker on" and must confess our amazement that men pretending to be Democrats should resort to such means as were employed on this occasion to gag the people and force them to swallow the constitution, willy, nilly. A decent respect for themselves, if not for their fellow citizens ought, it seems to us, to have restrained Messrs. Upham, Graham, Magone, and Huebschmann from any interference with the meeting and especially from any forcible attempt to stifle the public voice. Still more should a regard for the public peace have prevented Justice Matthieson, Constable Guerin, and others of our city authorities from aiding and abetting a row of the above description. How shall law and order be made to prevail, if those who are charged with the duty of maintaining are the first to trample them under foot! The contest was between the people and the officeholders, and as usual the latter were eventually worsted. We doubt not that, despite their desperate and reckless efforts, a like fate awaits them at the ballot boxes in April.

#### AN ARGUMENT FOR NEGRO SUFFRAGE

[February 16, 1847]

MARTINSVILLE, February 8, 1847

MESSRS. EDITORS: In the first words spoken by our infant nation this remarkable sentence occurs, referring to the then King of Great Britain: "He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them and formidable to tyrants only." Again of the same personage: "He has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws,

giving his assent to their acts of pretended legislation for (among other things) imposing taxes on us without our consent." And finally declares: "A prince whose character is marked with every act which may define a tyrant is unfit to be the ruler of a free people."

Was this declaration of our patriot fathers true? Was it indeed tyranny in the British king to rob any part of the people of a representation in the legislature? And was it inestimable to them, and formidable to none save tyrants? And was it true that taxation without representation was tyranny? It would seem it was then so considered, for it made a prominent item in the indictment against the reigning monarch that he assented to such taxation, and it was declared by American statesmen to be sufficient of itself to warrant a dissolution of their political connection. Then what apology can be urged when the same tyranny is attempted by a republican state? Or is it possible it was tyranny in the one and not in the other? Was it tyranny seventy years ago in George III of England—and the same thing now a righteous and rightful prerogative of the dominant power in democratic Wisconsin?

The constitution submitted to the people of Wisconsin robs a class of men born on our soil—it may be industrious and worthy—of all "right of representation in the legislature" or any voice in the election of their own rulers. It assumes the right to tax them without their consent. And all, forsooth, because their complexion is not the orthodox complexion of the state.

If it shall be said that we will exempt the colored people from taxation, what then becomes of the main if not the only argument against negro suffrage, viz., that it would invite an overwhelming colored population to our state? If the right of suffrage, while accompanied with taxation, should have that tendency, would not the inducement be much stronger if the same class of men should have the same right to hold any amount of property here, and that property forever free from taxation, though the right of suffrage be denied? There is no danger to the state in being just to all men. And every reason that can be adduced in favor of the right of suffrage for the white man applies with equal force to the black; and at least one other reason of great weight in favor of the latter, which has no application in the former case. It is that there is in society a strong and determined prejudice against the negro and his rights on account of his color. It is therefore the more necessary that he should be allowed to defend himself at the ballot box by assisting to elect such men to rule over him as shall rule in righteousness and mete out equal and exact justice to all men.

## THE CONSTITUTION—THE LEGISLATURE

[February 18, 1847]

MR. EDITOR: Not deeming the question of the adoption or rejection of the constitution as political in its nature so far as concerns either the Whig or Democratic parties I hope you will allow one of your Democratic subscribers the use of your columns, in order briefly to express his views in opposition to a particular article of the constitution upon which, as yet, I have seen no comment in your journal. I refer to article 5, on the constitution and organization of the legislature. The first two sections are as follows:

“Section 1. The legislative power shall be vested in a senate and house of representatives.

“Section. 2. The number of the members of the house of representatives shall never be less than 60 nor more than 120. The senate shall consist of a number of members not greater than one-third nor less [than] one-fourth of the number of the members of the house of representatives.”

From these sections it appears that the legislature can never consist of less than 75, and may be increased to 160 members, either number much too large for the limited resources and small population of this territory. And as the legislature are themselves to fix their own number, we cannot but presume that at their very first session they will go up to the highest mark, and once there, they will never reduce it. The bank article, the exemption article, the judiciary article, every other article in the constitution may be altered for better or for worse by the legislature, but it is not in human nature for that body to cut down their own numbers. Assuming then that the number of members of the legislature will be 160, let us look at the results. Instead of a quiet, orderly session of forty or fifty days we shall have a stormy one of three or four months; instead of the passage of good and wholesome laws for the benefit of those they represent, their time will be consumed in useless debates and partisan squabbles, in speeches to buncombe, and idle attempts at self-glorification. In short, so large a body of men, composed of such discordant and conflicting materials as it necessarily must be, will not be likely to accomplish more business in a session of four months than our board of county supervisors, twelve in number, would do in as many weeks. It may be said that the pay is so small that members will be glad to dispatch business and adjourn as soon as possible. But not so. There are few of that class



of men who usually represent us in our legislative bodies, who earn or can earn an honest living at home, and they will stick to their two dollars a day and "incidentals" just so long as they can get them. What is it that protracts the sessions of Congress into the sultry months of July and August but their per diem—their pay? It is no regard for the people or the people's interests! No, it is the pay they receive for their often useless services. And so it will be with us. And who furnishes the pay for these 160 members? Not themselves. It is drawn from the pockets of the sons of toil—from the mechanic, the merchant, the farmer—from the taxpayers—and I ask them to read the article referred to and say whether they are willing to foot the enormous bill. There is no need of so numerous a legislature. New York, with a population of nearly three million, has but 160 members in both branches of the legislature. Ohio, with a population of nearly two million, has but 80, and the other states, except Vermont and Massachusetts, in almost the same proportion; and yet Wisconsin, with a population of less than two hundred thousand, would have as numerous a legislature as the Empire State. A house composed of 45 and a senate of 15 members is all that is required. They will accomplish all business in a short space of time and at a cost of less than one-third of the expense of the number proposed by the constitution. The late territorial legislature consisted of 39 members, sat less than forty days, and dispatched more business than any preceding legislature. The body was small, but it was a working body on that account. Had it been four times as large, it might have sat till June without discharging its duties.

When Wisconsin becomes a state, Congress will no longer defray our legislative and other expenses; we must defray them ourselves. Let the taxpayers then look well to it that they get a cheap and economical system of government. We complain of heavy taxes now, but what shall we say then? I fear we shall resemble the Israelites under Rehoboam—"My father," said he, "made your yoke heavy, but I will add to it; he chastised you with whips, but I will chastise you with scorpions." There can be no party question about this article in the constitution. Let us then examine our purses and see whether we can afford so expensive an instrument.

GRANVILLE

## THE UPRISING OF THE PEOPLE

[March 8, 1847]

The gathering at the courthouse in this city on Thursday evening last of those Democrats who are opposed to the constitution was throughout and altogether the most remarkable popular demonstration that our city has ever seen. Not in numbers only, nor merely in regard to the character and standing of those who participated in it, was it imposing and impressive, but yet more so from the spirit, the determination, the harmony, and the enthusiasm which pervaded the whole of the vast assemblage. The scene was a most striking one. A heavy body of snow covered the courthouse square. In the center a huge pile of wood in full blaze diffused a bright glare over the entire neighborhood. The interior of the courthouse was packed full, while on the outside a mass of many hundreds was gathered round the county buildings, from the top of which several speakers surrounded by blazing torches addressed the eager crowd. Ever and anon a thundering cheer would come rushing out upon the night air from the windows of the courthouse, and would be caught up in the instant and echoed back by the dense mass without. The speakers, animated and excited by the presence and enthusiasm of so large a gathering, acquitted themselves exceedingly well, and to every appeal a prompt and hearty response came up from the audience.

Within the courthouse the ball was opened by Mr. Kilbourn, who made a strong, practical, and most conclusive argument against the constitution. Marshall M. Strong followed Mr. Kilbourn, and for five minutes after his name was announced and he appeared upon the stand, cheer upon cheer shook the building and woke up responsive echoes from without. Most cordial indeed was the reception extended to Mr. Strong, and so he evidently felt it to be, for it stirred his blood as the trumpet call rouses up the warrior, and he spoke with a power and eloquence which told with wonderful effect upon his audience. Out of doors, Mr. H. N. Wells, Mr. Brisbin, and other gentlemen spoke to the masses there assembled and demonstrated the errors and imperfections of the constitution with a force and clearness that left its champions nothing to stand upon.

The meeting was in session some three hours and seemed disposed to remain together for three hours longer. A very considerable proportion of those in attendance were Germans and Irishmen,

mechanics and laborers, who of all other classes must suffer the most from the restrictive, credit-destroying features of the "Tadpole" constitution. After the formal adjournment the constitution was burnt in the pyre on the courthouse square, and then the meeting marched in procession through several of our principal streets and, finally, about eleven o'clock quietly dispersed.

The address and resolutions, which were read and adopted by acclamation both within and without the courthouse, are strong, pungent, and conclusive. We presume that they will be given to the public at an early day and shall take pleasure in copying them. As we remarked on Saturday, we augur well from this meeting. Its influence will be felt throughout the territory and will be decisive. The only chance of forcing the constitution down the throats of the people was to make it a party issue, and by the application of the party screws to compel every "good Democrat" to vote for it, defective, mischievous, and intolerable as it was. But this game is now effectually blocked. The bold and manly stand taken by Messrs. Kilbourn, Crocker, Holliday, Wells, Weeks, and other prominent and well-known Democrats of this city; of Marshall M. Strong of Racine; W. H. H. Bailey and Mr. Hackett of Rock; Messrs. Read, Parks, Edgerton, etc., of Waukesha, and others too numerous to mention, all over the territory, has dissipated the last hope of the office seekers and demagogues who thought by raising the party slogan to cheat, cajole, or coerce the people into the support of the constitution.

#### AN APPEAL TO THE LABOR VOTE

[March 22, 1847]

LABORERS AND MECHANICS OF WISCONSIN: You form more than one-half of the freemen of Milwaukee and more than one-third of the voters of Wisconsin. Will you permit me to address to you a few thoughts on what you are told is the "poor man's" provision in the constitution? I would have had nothing to say were not others trying to mislead you by false colors and to cheat you with a mockery. I shall use no arts of a declaimer or pettifogger. You can easily find out for yourselves whether the plain story I have to tell is true. You have been told by the advocates of the constitution that the exemption of forty acres to everybody, or of a homestead of forty acres in the country, or of a house and lots in a town was made for you, for the poor laborer and mechanic. That if it does hurt the rich merchant in Milwaukee or New York, it will



be a great help to the poor man. That the laborer who shall work on the land or village lot which is exempted will have a lien on them for his wages and cannot be defrauded. And you are also told that you had better take this constitution with all its other faults than risk the loss of this poor man's boon, which they say is too good ever to be offered to you a second time by another constitution. I might here ask: If this provision is really so just in itself and so excellent a thing for you, and they know it, and you can see it, why not trust to you and the people to adopt it hereafter in your laws? Exemptions always have been and always should be made by laws and not by constitutions. You choose your lawmakers every year; you can tell them your wants and instruct them to provide for them. Have you not suspected that they believe that you would not, because you ought not to try this experiment in your laws, and that therefore they urge you to take it now on their word and in the constitution?

But I will pass on to another question which is first to be answered. Do you yet know what this exemption section means? You have read it, of course, as it was made for you. It speaks of mechanics and laborers and their lien. Do you know what this lien is, and have you heard more than one story about it, and if so, whose word do you take? This section you remember declares that a homestead of land in the country or of house and lots in the city, if not worth more than \$1,000, shall not be sold on execution for the debts of the owner, and then provides that "such exemption shall not affect in any manner any mechanic's or laborer's lien or any mortgage thereon lawfully obtained." Until a week or two past everybody—lawyers and all—understood that under this section a man might own a thousand dollar farm in the country or a house and lot in the city of the same value and owe his laborers no matter how much for clearing and fencing and ploughing his farm or digging a well on the city lot and cheat them out of their wages. You thought so, too, and perhaps you have heard or read in the *Courier* that at a large meeting at Milwaukee last week Isaac P. Walker Esq., a lawyer whom you know, rose and said that the story that the laborer could be cheated out of his wages in this way was false—that the laborer had a lien for his wages and that Mr. Walker in order to show that the laborer had such lien read the words I have just quoted. You have since read in the *Courier* the same denial repeated in about the same words. You have very likely heard it often repeated by others and, perhaps, lawyers. Now when the editor of the *Courier* and Mr. Walker and those others tell you that a laborer has a lien and in proof of what

they say read the words I have quoted they do not tell or explain to you what that lien is, nor on what it is, nor for what work it is. But they wish you to believe (although they dare not say so in public where they will be confronted) that a laborer has a lien for his labor on the land or lot—that is, for chopping and ploughing on the farm, or digging a well, or grading on the lot, and that the farm or homestead can be sold to pay such lien. Some of them are even willing that you should believe that the laborer and mechanic will have a lien on a homestead for work done in the mechanic's shop or on the highway. Now the editor of the *Courier* and Mr. Walker and every respectable lawyer knows the contrary of all this to be true. They know that the only lien the mechanic and laborer has under this constitution is for work on the building, which may be on the farm or lot. The lien must be a lien lawfully obtained—a lien under our mechanic's lien law. We have no other law; there is no other lien on house or land; and that lien is to the man, whether mechanic or laborer, who works on the building, and for such work and none other.

Our lien law gives to every carpenter, mason, painter, or hod carrier who works on a building a lien for his work and also to every man who furnishes materials for the building a lien for the value of the materials. The lien is on the building for work on the building; and Mr. Walker also knows that if the lien is less than \$20, it is not worth the cost and expense of enforcing the lien. And I challenge Mr. Walker, Mr. Upham, and Mr. Lynde, or any other of the many lawyers sounding the praises of this poor laborer's exemption to deny this statement in writing or in public where they can be confronted. Rest assured, therefore, that it is true that if this constitution is adopted, the owner of a farm, a village residence worth \$1,000, can hire laborers by scores to clear, fence, till, and harvest his farm, or to dig his well and work his garden or grounds, and afterwards turn them off without pay and enjoy unmolested this place which they have enriched by their labors. But have you noticed what other persons besides laborers on the land are defrauded by the exemption?

Our lien law, I have shown, gives any man a lien for materials furnished and used on any building. But by this exemption every such person is deprived of his lien and can be cheated out of whatever he may furnish. The owner of the homestead, then worth \$200, may continue to get trusted by the lumber merchant for his lumber, by the brickmaker for his brick, by the lime burner for his lime, by the blacksmith for his iron fixtures, by others for his frame.

timber and other materials, by the storekeeper for his nails, locks, oils, paints, and glass, put these materials into a house worth \$800, furnish it and move into it with his family, and when the merchant, bricklayer, lime burner, blacksmith, and the rest beset his door for their pay, he may tell them that he is discharged by the poor man's constitution. And now, perhaps, those of you, mechanics and laborers, who get your living by house building, may like to know to whom you are indebted for that provision which secures to you and to you alone a lien for your work. And you, lumber dealers, brickmakers, blacksmiths, and others whose business it is to furnish materials for buildings may like to know why you are left out in this provision. The provision for the mechanic and laborer was offered, advocated, and fought for by Marshall M. Strong, and carried at last, after several defeats. The same Mr. Strong offered and urged several times another amendment, preserving the lien of the brickmaker, blacksmith, and the others heretofore thought worthy of protection under our law; but the amendment was every time frowned down and rejected by the present advocates of the poor man's exemption. Let us now look at the principle and effect of this poor man's exemption in its true light and see whether it was made for you, laborers and mechanics.

Let us bring the thing home to us and picture it as it will work here in the city of Milwaukee. We have now about eleven thousand people, or about two thousand families. All of the real and personal property of the city was carefully assessed last summer near to its true value and amounted to about \$1,500,000. Some people in the city own property out of it; and on the other hand, some property in it is owned by people who live out of it. It will do to put one against the other. Add for the property omitted by the assessors and for the difference between the true and the assessed value one-third or \$500,000, and we have the value of all of the property of our people, which is \$2,000,000. This, if equally distributed among the 2,000 families, will divide \$1,000 to every head of a family. Although property is more equally divided here than in many cities, yet if you look over the tax list you will find that \$1,000,000, or one-half of this property, is owned by less than 200 men—about \$700,000 is held by 700 men in sums varying from \$500 to \$3,000 for each man, of which the average is \$1,000—and the remaining \$300,000 is distributed among the 1,100 families remaining in amounts varying from \$25 to \$500, of which the average is less than \$300. Probably 500 of these families have not over \$100 of property each. About one family in four of the city holds \$1,000, and about one



family in six holds \$2,000. Is it asked if Milwaukee is a fair illustration for the whole territory? Property in the country is more equally divided. There are fewer who are very rich, and fewer who are very poor; but the average is less. Even in the rich state of New York, containing 3,000,000 people, or 600,000 families, the property in the state is returned at \$650,000,000, which will divide less than \$1,100 to a family.

Now under the proposed constitution a head of a family can hold \$1,000 in land and house exempt from payment of his debts, and under our present laws at least he can hold \$1,000 more (as I shall show) in personal property; that is, under both, the sum of \$2,000; an amount which only one family in six does now own or is likely to acquire; an amount twice as large as the entire property of the whole people would divide to each family, if equally divided; an amount twenty times as large as that held by 500 families in the city who pay all of their just debts. Is this justice? Is this protection, as they call it, to the poor man? Look at it! If this constitution is adopted, there may be one year hence in this city five men, each having a job as contractor on some public work—say in grading streets—and each having 100 of these 500 heads of families in his employ. To each one of these poor laborers (none of whom has over \$100 in the world) their employer may owe \$30 for two months' wages; that is to all in his employ, \$3,000; he may then stop his work, turn off his men without pay, go home to his thousand dollar home, furnished with a thousand dollars' worth of comforts, and defy his poor creditors or the law to touch him or his property. Is this a righteous provision for the poor man?

I have shown what can be done; let us see what will be done. Who want this new exemption and who will make use of it to cheat their creditors? It is not any of the 200 rich men who own half of the property of the city. They cannot lose or gain by it. They need not lend, trust, borrow, or run in debt. It is not the poor laborer or mechanic, representing at least 700 families in our city, of which not one is worth \$500 and most are not worth \$100; for they do not owe and cannot make debts of any amount, and each of them can well lay out for necessaries and comforts twice as much as he can earn or save, and this he can now keep from his creditors, if he had any, without any constitutional exemption. Who then do want it? Bankrupt traders and speculators, who hate to give up their property for their debts; rogues and drones, who forsaking regular industry or disdaining to work with their hands try to live by their wits; men who have learned the trade of stealing the money of the rich man and

the labor of the poor man with their promises to pay, which are never paid, and now want a constitution which will help them to keep what they steal. These are they who now profess to advocate the poor man's provision in the poor man's constitution for the sake of the poor man. For them and by them was the poor man's exemption engrafted into the constitution. All of these, from their great bankrupt defaulter and leader, James D. Doty, who reported the provision with its yoke fellow, the section for the husbands of married women, down to the little bankrupts in every county, are active and noisy advocates of the constitution, working for it as for their lives.

### A FURTHER APPEAL TO THE LABORER

[March 23, 1847]

LABORERS AND MECHANICS OF WISCONSIN: And now it will be worth while to cypher it out and see how entirely these advocates of the constitution are working for the poor laborer and mechanic and how entirely they have forgotten themselves. Our disinterested advocate, whom we may suppose to be a lawyer, will expect to hold under the constitution his house and lot in the city—a respectable house worth just \$1,000. Under our present exemption laws continued in force, as he says, by the constitution, he will keep from his creditors:

1. His family library, which as he is a book man will be up to the mark of the law, to wit, \$100.

2. All stoves, put up for use in his house. This item, if he is content with one cooking stove and three parlor and chamber stoves, will be \$50. He can when he chooses increase this investment to \$100.

3. Pew in a church. Our advocate's family are genteel, church-going people, and fancy a pew in a fashionable church. (The cost is not felt; what is given to religion comes out of his creditors.) He takes a good pew in the Episcopal Church (cushioned, of course); some sell for \$125—charge him \$100.

4. Cow and five swine. His hired boy who does chores can attend to them. They, with winter stock of hay and grain, we will call \$50. If he has a fancy for fine breeds, Durham and Leicestershire, we should double that sum.

5. Provisions. For the use of this family, which ordinarily consists of himself and wife, three children, hired girl, and boy. He will of course lay in all that the law allows—a full six months' supply of flour, pork, beef, No. 1 mackerel, etc., worth, say \$150.

6. Fuel for one year. It will be economy for him to keep a year's stock on hand, to season—sawed, split, and snugly housed. We can't call it less than twenty-five cords at \$2—\$50.

7. Wearing apparel. His clothing, when a bachelor, was never worth less than \$150—add that of his wife and children, who are among the best-dressed people at church, and we have at least \$250. It might easily with a large family of children be \$400.

8. Beds and bedding. Four common feather beds and bedding for ordinary use and one spare bed for friends would cost \$40 each—\$200.

9. Furniture. The articles enumerated in the statute, one table, six chairs, etc, and \$50 in articles not enumerated—worth in all \$100—will only furnish the kitchen and cupboard. The law allows no more, even to an advocate. What is to be done? Mrs. Advocate being ashamed to keep house with bare floors and bare walls has been boarding out with her family. But this was thought of by our advocate and other good husbands when the constitution was being made. Just as our couple think of moving into their new house Mrs. Advocate is surprised with presents of parlor carpets and of a mirror and numerous other articles of comfort and luxury from some near relative—perhaps some old aunt. Who knows but himself if Mr. Advocate did bribe the old lady to send these love tokens? We need not ask what all of the nice furniture is worth—it was given to Mrs. Advocate by some person other than her husband and is therefore her own separate property. (See article on the rights of married women in the new constitution, section 1.)

We will pass over such articles as spinning wheels, for which our advocate has no use, and come to the last item.

10. Library of a lawyer. Law business and law books will be good under the new constitution. He will find use for all that the law allows him, to wit, \$200.

Let us foot up:

Family library.....	\$100	\$100
Pew in Episcopal Church.....	50	100
Cow and swine, etc.....	50	100
Provisions.....	150	150
Fuel.....	50	50
Wearing apparel.....	250	250
Beds and bedding.....	200	200
Other furniture.....	100	100
Law library.....	200	200

\$1,250    \$1,625\*\*

\*\* The correct totals for these columns are 1,150 and 1,250



Our advocate may be too modest to hold all this at first—cut it down to \$1,000, then add house and lot, \$1,000, and we have \$2,000, which with Mrs. Advocate's new furniture puts our bankrupt among the second class of our rich folks in the city. And all this, when he once gets it, the poor man's constitution secures to him against the world. To be sure it is one thing to get it; but our advocate is not a simple, friendless laborer or common mechanic; he has friends, opportunities, chances to handle money, and knows how to shift property. He will come by it, somehow, if no one can tell how.

But now let us look at the case of our poor laborer. We will suppose him to be one of the 500 honest, hard-working men, who earn the bread of themselves and their families, with the ax, shovel, and pick, or the hod.

His homestead under the constitution is his shanty, built with his own hands, on another's lot, for which he pays taxes as ground rent, or two small rooms for which he pays 6s. a week. We will not reckon the value:

Stove.....	\$10.00
Family library—Bible and schoolbooks.....	2.00
Provisions, until next Saturday night.....	.75
Two pigs.....	2.00
Fuel—half a load of wood.....	.75
Clothing.....	20.00
Two straw beds and bedding.....	10.00
Other furniture.....	10.00
Tools of trade, ax, etc.....	4.00
	<hr/>
	\$59.75

You may think this an extreme case; but we fear that one hundred families in our city are no better off. Most of our laborers, we fear, would not show an inventory, much, if any, above \$100. Now we ask what good will the poor man's exemption do to these poor men and their families, or to any of the mechanics and laborers composing one-half of our people? Will it give them a house and lot in the town or in the country worth \$1,000 or any other sum? We have heard that the story was so told at first. Members of the convention had nothing that they could give away but the canal lands, and these have not yet paid off the fifty cents extra per diem. Will it or the section shutting out small bills to the poor man and reserving large bills for the accommodation of the merchant help them to get the money to buy this homestead? No, not exactly so, says our advocate, but it does almost the same thing; it gives them good advice to save all that they can earn and lay it out in a house and lot or farm, and then the constitution will keep it for them.

"Keep it from whom?" asks the laborer.

"Your creditors, to be sure."

"What creditors? I owe, to be sure, some store accounts and a doctor's bill; does the constitution pay these?"

"No; but you may get into debt as much as you please after this and you need not pay for the law can't touch what you have!"

"Is that all? I can lay out now four times as much as I can earn for what we need more than a forty-acre or town lot, that is, for comforts and necessaries for my family. And ten times more than this, if I could get it, the law would keep for us before, but I could not get it; and I don't yet see how the new constitution will help me to get it. Besides, I would be ashamed enough not to pay my honest debts if I could, whether the law said so or not. But it is not the debts (that are to come) that I am afraid of or want to dodge, if the constitution does advise me to do so. I am not mean enough to take such advice. If I was, I know this well enough—nobody would give me a chance by trusting me. What we laborers want is plenty of work, good wages, and good paymasters, and the constitution that helps to give us these is the constitution for the workingmen."

Everybody knows that the constitution won't pay the old debts of a poor man, or save his homestead, if he has one, from them. Now let us see if the friends of the constitution tell the truth when they say that under it the poor man may run into debt when he will and not lose his home. For if this is true, they may think it a good doctrine to preach, to win voters with for the constitution, although in preaching it they preach an insult to every honest laborer or mechanic. Suppose our poor man has in some way got his house worth \$300 or \$500; he or his family or both are or have been sick or he has not been paid for his work; his money is gone. He wants food and comforts for his suffering household; he goes to the store; the merchant will not trust because his house and all are exempt under the constitution and he can't be forced to pay. The merchant wants security and tells him if he will give a mortgage of his place (for the constitution lets him do that) he may have what he wants. Perhaps he parts with his cow and pigs before he does that, for he may dread a mortgage. Soon after he comes again, for his family are suffering—he'll give a mortgage; the merchant will not take one for less than \$50 or a \$100, or perhaps the value of the place, for it won't pay for the expenses, and he can't foreclose one under \$100; he gives a mortgage for what he wants now and what he may want hereafter. He is now caught in the constitution trap; he

runs to the merchant for everything he wants, if he has not the money by him. If he is sick or has bad luck in getting work or pay he soon runs out his homestead. He can't buy elsewhere. The merchant has tight hold of his all and charges big profits on his goods. By and by the house and lot is sold on the mortgage at a sacrifice and without redemption. Had not his place been exempt, he could have traded where he chose, at the lowest prices—would have been careful not to run deep into debt—and if from bad luck he could not pay and had been sued he would have some grace before execution and two years to redeem after execution sale.

Would he lose his homestead sooner under the constitution, or under the law as it is? Under the constitution.

But this is not all of our poor man's experience under the poor man's exemption. He takes a job of a gentleman to dig and stone a well on his place on the hill for \$30, and a job of another gentleman to grade the high bank on the back part of his house lot; good jobs, he thinks, which these gentlemen promised him when they asked him to vote for the constitution. When the jobs are done and he wants his pay, he is put off with promises. He waits until he is tired and gets our Mr. Advocate to sue them. Thirty days after judgment Mr. Advocate and the constable tell him that they can't collect the judgment. "Why not?" he asks, for he knows that these gentlemen own nice houses on the hill and have fifteen hundred dollars' worth of property besides, and live as well as anybody. Mr. Advocate tells him that he has looked into that and finds that they have got no more than they are allowed by the constitution. Not long afterwards Mr. Advocate sues our laborer for his fees for pettifogging the suits. Of course the laborer confesses the debt but rests easy, that the little he has is his own, under the poor man's constitution. Mr. Brown is owing our laborer \$5 for his week's work. This he is to have on Saturday night, and to pay out for necessaries. Before Saturday night our advocate has found it out; he garnishees Mr. Brown and makes him pay the \$5 on the advocate's judgment. What can our laborer do? He will curse the gentleman on the hill and our advocate (who also pays his laborer with promises under the constitution) and would send them and the poor man's constitution where they will go on the first Tuesday of April next.

And now you may be curious to find out where Judge Doty and the other constitutional quacks got this new cure for the poverty-stricken laborer and mechanic. Has it been recommended or tried by any of the old doctors on constitutions in the old states? No,



they have ever been shy of it and last summer proscribed it in New York.

Where did they find it? In the constitution of Texas, as they say. Was it there got up for the benefit of mechanics or thought to be good for the laborer? They dare not say that. They know and you know that in Texas there are no manufactures scarcely, but house building and of course but few mechanics, and all of the laborers are negroes, and slaves. The mechanics have a lien on the buildings for their wages, and the negroes, you know, are taken care of by their constitution in another way. For whom, then, was it got up? We can guess. The Texans wanted settlers to cover their 200,000 square miles, to pay taxes, and fight the Mexicans; and in order to seduce broken planters to run away with their negroes and bankrupt traders with their goods from the land of good order and wholesome laws they held out to them the bait of a nice plantation of three hundred and twenty acres and as much more of personal property with it, to be kept for them by the constitution; and to those who should bring or take wives to settle the wilds they coupled this tempting offer with another—to keep for them as much more as they wanted on their wives' account. And these two provisions, the first a little softened and yoked together as in Texas (for they are as inseparable as man and wife) were introduced into the Wisconsin convention. And after the Doctor Judd had suffered the one hundred and sixty acres to be reduced to forty, and Mr. Strong to edge in his proviso for workmen on buildings (for the Doctors had not then discovered that they were meant for laborers and mechanics) the couple were received into the sanctuary of the constitution.

#### TWO WEEKS FROM TODAY

[March 23, 1847]

On the first Tuesday of April, two weeks from today, the great question which has engrossed public attention in our territory for several months past is to be submitted to the judgment and decision of the people. The electors of Wisconsin are then to ratify or reject the constitution framed in November and December last by a convention chosen for the purpose. The earnest discussions which have been going on in all parts of the territory for the past few weeks and the diligent efforts of both the friends and the opponents of the constitution to spread its merits and defects before the people leave little reason to doubt that the very great proportion of the electors have seen, read, and reflected upon the question on which they are to

pronounce. Nor can there be any doubt that the absorbing nature of the contest, the magnitude of the interests at stake, and the momentous consequences involved in the issue will insure a very full vote on the appointed day. For one, we trust that every man in the territory, entitled by our laws to the right of suffrage, will exercise that right on this occasion. No question can possibly arise which more emphatically demands the full, universal, unequivocal expression of the popular voices and will.

In all that we have said during the progress of the discussion we have carefully refrained from any party appeals or allusions. We have felt throughout that the question was one far above and beyond the narrow platform and rigid rules of party. We have endeavored, therefore, to present such considerations to our readers as would weigh with all, whatever their political preferences or associations. But we should fail of our duty as the conductors of a Whig press if as the hour of battle draws nigh and the trumpets of the opposing hosts are pealing forth the signal for the contest we did not specially urge upon every Whig in Wisconsin to put on his armor, assume his post, and bear his part manfully in the approaching struggle. We do not, indeed, appeal to them as Whigs to vote against the constitution. But we do appeal to them earnestly and not, we trust, unsuccessfully to come up to the polls on the first Tuesday of April and cast their votes as their principles, their reason, and their conscience shall dictate.

To our Democratic readers—and we are glad to know that we have hundreds of them—we address the same appeal that we do to our Whig friends. And something more. It is sought by many of those who support the constitution to force its adoption on party grounds. The honest mass of the party are appealed to, to sustain this confessedly weak, defective, and fraud-inviting instrument because the convention which framed it was a “Democratic” one. Is that single fact a sufficient reason to induce you to vote for a bad constitution? Are you willing to assume this responsibility, which a few party leaders for selfish and personal ends seek to impose upon you? Will you stand sponsors for this constitution “with all its imperfections on its head,” merely because a convention, not sent to act for a party, but for the people, saw fit to stamp it with the seal of “Democracy?” If it were truly a Democratic constitution in its liberal sense and as such entitled to the support of all true Democrats it did not need the official sign and seal of the convention to give it currency and value. If, on the other hand, it be not the genuine article its friends pretend, can the imprimatur of a con-

vention, at best of doubtful character, lend it either authority or sanction?

It is a circumstance which must have attracted general attention during the progress of this contest that very few in any section of our territory have taken an active part in sustaining the constitution besides the delegates themselves and the tribe of office seekers who continually hunger and thirst after the spoils. It is these two classes of men, and these alone, who stand up for the constitution. But how obvious the motive which prompts their action. Self, self, self, is the ruling, aye, the only principle. It is not the constitution, nor the rights of the people, nor the interests of the territory, that these men care for—they think only of themselves. They have set their political fortunes on this cast, and every trick, device, and artifice that the most practiced political blacklegs could invent are freely resorted to, to compass their selfish ends. Will the people listen to these feed and interested advocates of a bad cause?

Still another circumstance worthy of note is that the most zealous friends of the constitution admit its glaring faults and defects. No man pretends to approve or defend it as a whole. In this city, although the *Courier* outwardly sustains it all, the leaders in private answer most objections by the ready and cheap promise, "Well, that article is very bad, but it will be amended by the first state legislature." This, for instance, is the constant reply to those who find fault with the bank article. Indeed it is the convenient refuge for every declaimer in behalf of the constitution when hard pressed for an answer. "The constitution is so easily amended and this will be the first section stricken out or altered."

Who ever before heard the facility of amendment urged as a reason for supporting a constitution? Besides if it be so very easy to strike out the bad parts, is it not just as easy to strike out the good ones? Is there not just as strong a probability of our losing the one as of our gaining the other? Legislatures, said the convention, are not to be trusted. We must tie up their hands for ten years at least so that they shall neither pick nor steal. Now suppose that the first legislature assembled at Madison proves to be one of those corrupt, ignorant, untrustworthy bodies which the convention seems to have anticipated they would all be. One party wants to change the bank article; another, the internal improvement article; a third, the judiciary; a fourth, the exemption; a fifth, perhaps the organization of the legislature and the tenure and compensation of state officers. Each one in the desire to carry his own amendment is willing to vote for his neighbor's or will oppose all



if his own is likely to be defeated. They must all, then, stand or fall together. Logrolling carries the day. The amendments are passed in a lump and submitted in the same form to the people, to compel them, as in case of the constitution, to accept or reject, good and bad together. Such will be the easy mode of amending the constitution! Yet the champions of that instrument continually and imploringly cry to the people "Only vote for it now, and we'll amend it just as you please in the legislature." Let the people be on their guard against all such delusive promises. Let them make sure of the matter by rejecting the constitution and choosing a new convention to make a better one rather than trust to legislative tinkering to patch up the present instrument.

We have referred to this "easy amendment" argument because it is, in truth, the only one left to the friends of the constitution. Take that away and their cause is without a single prop. Admit that it would be a work of time, of expense, of difficulty, perhaps of impossibility, for the legislature to amend the constitution, and the question is decided. It is only upon promise of amendment that any portion of the people can be induced to vote for the constitution. We do not entertain a doubt that if this instrument could be submitted—as it is and with the understanding that if approved it was to remain as it is—to the people of Wisconsin, at least three-fourths of all the votes cast would be given against it. It could hardly muster friends enough to give it a respectable burial. The question, then, for each elector to consider is: If I vote for this constitution, have I any security that it will be amended as I desire? Will those leaders who make such fair promises now have the power or the inclination to keep them after election? Shall I vote for a confessedly bad constitution upon the dim and distant contingency that some future legislature will make it better? Shall I submit to a positive evil upon the chance of securing a possible good?

Can there be a doubt as to what answer every man's reason will return to these questions? Can there be a doubt as to what course every man's conscience will prompt him to take in the coming struggle? Fellow citizens of Wisconsin, can you, as intelligent, reflecting, honest men support such a constitution as the one now submitted to your decision? Will you vote for a constitution which discriminates against the poor and in favor of the rich man? Will you vote for a constitution which destroys credit, excludes capital, and makes it a penal offense to give or take bank bills? Will you vote for a constitution which loosens the marriage tie, erects separate interests for man and wife, and seeks to make those twain whom God's

holy word has pronounced one flesh? Will you vote for a constitution which releases the fortunate owner of one or two thousand dollars from all obligations to pay his debts and bars the poor creditor, the laboring man, and the mechanic of his remedy against the dishonest debtor? Will you vote for a constitution which was made for rogues and not for honest men; which must retard the growth, cripple the energies, and arrest the enterprise of our territory; and which will make the name of Wisconsin a byword and reproach all over the Union? These, fellow citizens, are the questions to be answered—the issue to be tried on the first Tuesday of April next. Let no consideration induce you to be absent from the polls on that day. Let no unworthy motive tempt you to vote against the dictates of your judgment and your conscience. Let no party appeals, no electioneering device, no personal, political, or local interest, be permitted to sway you from the right. Stand up for the cause of equal rights, of honest laws, of good government. Strike down the constitution made to protect the rich swindler against the honest poor man. Rebuke the demagogues who have dared to insult your understanding by offering so wicked and worthless an instrument for your adoption. Let not Wisconsin come into the Union with the instruments of fraud in her hand and the brand of dishonor upon her brow. Let not this fair territory be converted into an asylum for “distressed husbands,” a place of refuge for dishonest creditors, a receptacle for stolen goods. Let not the youngest and loveliest daughter of the Confederacy be known only for her loose morals and easy virtue. Let not this rising star in the federal constellation become one of baleful import and noxious influence to our whole land. Freemen of Wisconsin! As you love liberty and hate oppression—as you respect honesty and detest fraud—as you cherish your wives and children and would secure to them happy and comfortable homes—as you value the institutions under which you have grown up and hope to transmit them, unsullied and unimpaired, to the latest posterity—as you would advance the interests, promote the welfare, and maintain the good name and fame of the land of promise in which you live—we urge you, one and all—Whigs, Democrats, and Abolitionists, farmers, mechanics, merchants, and laboring men, native and foreign born, young and old, rich and poor—to come up to the polls, side by side and shoulder to shoulder on the first Tuesday in April next, and to the question, “Shall this constitution be adopted?” return an emphatic, unhesitating, decisive, “No!”

## APPEAL OF THE WHIGS OF MILWAUKEE

[March 30, 1847]

*The Whigs of Milwaukee to their Brethren throughout the Territory—Greeting:*

FELLOW WHIGS OF WISCONSIN: We are within a few days of the most important election that has ever occurred in our territory. On the first Tuesday of April next the constitution framed by the convention which met at Madison last fall is to be submitted to the judgment of the people. For some weeks past a most active canvass has been going on in nearly every portion of the territory, and on the part of the friends of the constitution every species of political machinery has been put in requisition to secure a favorable result. It is doubtless known to you that on the question of adopting or rejecting the constitution the Democratic party is divided. A very large proportion, especially in the eastern part of the territory, openly and warmly oppose it. With a manliness that reflects upon them the greatest credit, they have taken a bold and determined stand against the attempts of a few interested and designing leaders to force the constitution upon the people. They appeal to us and to all good citizens to strengthen their hands in this contest. Nor are we appealed to by them alone. The friends of the constitution, at first sanguine of carrying their point without our aid, and disposed, therefore, to make it a party question, have since become alarmed at the signs of the times, and dropping or smothering their party war cry come to us with petitions for help. We are thus entreated both for and against the constitution. The reason why the Whigs of the territory, as a party, have not taken ground on this question must be obvious and satisfactory to you all. Though feeling the deepest interest in the result, it was feared that political action on our part might unfavorably affect the canvass by enabling a few designing men to use this fact as an argument with the rank and file of the party to vote for the constitution. Though anxious at all times to maintain the integrity, preserve the organization, and stand up for the principles of our party, we have thought that the momentous interests now at stake demand of us a temporary truce. We have refrained, therefore, from holding any Whig meetings, or making any party appeals, or attempting to rally our political brethren under their accustomed standards to do battle against the constitution. Yet have we felt that upon us, not as Whigs, merely, but as individual citizens of Wisconsin, rests a deep responsibility.



It depends upon us—upon our votes, our influence, and our exertions—whether the constitution shall be rejected or approved. The Whigs of the territory have it in their power to decide the issue. If we fold our arms, keep aloof from the polls, and remain indifferent spectators of the contest, the constitution will surely be adopted. If we attend the election and content ourselves with giving a silent vote, without attempting or desiring to make our influence felt, the constitution may be adopted. But if, as it seems to us, duty to ourselves and our country requires we cast our united efforts and suffrages into the anticonstitutional scale, the constitution must and will be defeated.

It has been urged, indeed, that politically the Whigs would be the gainers by the adoption of the constitution. No doubt the fact is so; but we cannot consent to purchase political capital at so dear a price. However our party might thrive, our territory must suffer by such a course. That the interests, the honor, and the welfare of Wisconsin demand the rejection of the constitution we do not entertain a doubt. That the adoption of this instrument would be fraught with infinite mischief to the growth, prosperity, and good name of our territory seems to us as clear as the noonday sun. That every consideration that can influence good citizens and honest men appeals to us to vote down the constitution does not in our judgment admit of question. What, then, should be our course? What position, fellow Whigs, shall we assume? Here, at least, we have neither doubts nor misgivings as to the answer. The Whigs of Milwaukee are united and unanimous in opposition to the constitution. We have but one view, one wish in the matter, and that is to see our fair territory saved from the injury and reproach of adopting so odious and objectionable an instrument. Our influence, our efforts, and our votes will be freely, heartily, enthusiastically devoted to this great end.

In the name, then, and by the authority of the Whigs of Milwaukee, we appeal to you, our brethren in every part of the territory, to stand by us and with us in the approaching conflict. Rally, we entreat you, one and all, for the truth and the right. Take instant and efficient measures to call out the entire vote of your town and neighborhood. Summon every man to his post and his duty. See that no one, through apathy, indifference, want of information, or want of entreaty, absents himself from the polls on the decisive day. The issue, we again repeat, rests with us. The fate of the constitution is in our hands. The fame and fortunes of Wisconsin depend on our course. Up, then, fellow Whigs, and to the work! Banish all

thoughts of inaction! Shake off every trace of indifference! Awake from your lethargy and arouse to earnest, persevering, determined action! Improve every hour which yet intervenes before the day of election! Omit no exertion to secure a full and fair expression of the popular voice. Erect your standards; assume your stations; marshal your ranks; do your duty; and a glorious victory will crown and consecrate your efforts.

We are your friends and fellow citizens,

JOHN H. TWEEDY	P. N. CUSHMAN JR	FRANK PUTNAM
JOHN HUSTIS	J. E. ARNOLD	RUFUS KING
W. S. WELLS	J. P. GREVES	W. W. BROWN
W. A. PRENTISS	OWEN ALDRICH	R. G. OWENS
A. FINCH JR.	HENRY SAYRES	W. D. WILSON
EBENEZER CHILDS	THOS. P. WILLIAMS	F. RANDALL
W. A. HAWKINS	SYLVESTER PETTIBONE	H. U. KING
	JOHN T. PERKINS	

#### JOHN H. TWEEDY'S DEFENSE

[April 5, 1847]

TO THE GERMAN AND IRISH ELECTORS OF MILWAUKEE:

I have seen in the last three numbers of the *Courier* the following falsehood standing out in bold letters:

#### KEEP IT BEFORE THE PEOPLE

That the only Whig delegate from this county in the convention that framed the constitution voted against the article giving to foreigners the right of voting for our public officers!

I was the only Whig delegate from this county and I voted for the article on suffrage. As falsehoods are being spoken and printed every day to make the Germans believe that the Whigs seek to disfranchise them and will do so if they can in another convention, I will explain some things which were done in the late convention. The suffrage article as it stands in the constitution requires a foreigner to declare his intentions and to file an oath to support the constitution.

Who contended long and earnestly for further restrictions? Messrs. Burnett and Bevans, leading Democrats. Mr. Burnett has since died. Mr. Bevans is electioneering for the constitution; his letters are published in the *Wisconsin Banner*. Who contended strenuously for the oath? Among others the foremost was Mr. Ryan, the great champion of the constitution, followed by his Irish colleague, Mr. Harkin. Mr. Burchard, the only Whig member of the suffrage

committee, reported a substitute more liberal than the article adopted, requiring an oath to support the Constitution of the United States and nothing more, and dispensing with the declaration of intentions.

I voted for that substitute but, as it did not exclude negroes and admit Indians it received but few votes. After about ten days of exciting debate the article passed. Eighty members out of ninety-nine voted for it requiring as it did the oath which the Democratic leaders now supporting the constitution insisted upon as just. Ninety out of the hundred acquiesced in the result as the final settlement of the vexed question.

But among the last days of the session, when the last article, the schedule, was under debate in committee a new provision out of place and so framed as to mean either of two things was carried, dispensing with the oath in reference to those foreigners who should have been in Wisconsin six months on the election day in April. Who carried this amendment? Sixty members, of whom nearly all had voted for the suffrage article requiring the oath of all foreigners and half had voted against an amendment dispensing with the oath when offered in its proper place, as an amendment to the suffrage article. Who spoke against this new provision and led in opposition? Messrs. Ryan, Harkin, Bevans, and Moses M. Strong, all now supporting the constitution. Three of these gentlemen were leaders of the Democratic party in the convention and are now leaders of the constitutional party in Racine, Iowa, and Grant counties, and the Germans now read Mr. Bevans' letter in the *Wisconsin Banner*. The arguments of Messrs. Ryan, Strong, and others convinced me that I must vote with them or abandon the principle which the convention, by the help of my vote, had agreed to. But what persuaded thirty members to turn about and change front? I can tell what a Democrat who voted with them told me.

Petitions had been received and a gentleman from Milwaukee, acting as the sponsor for the Germans, had written to a member promising the undivided German vote for the constitution, in case the oath was dispensed with. So to make sure of their votes for the constitution, these members resolved to do what they had deliberately refused to do. But when this provision was followed up by another from Mr. Hicks, permitting these same foreigners to be elected to office without taking oath—all but sixteen of the sixty of these consistent and disinterested friends of the Germans thought they had done enough to entitle them to their votes. And now delegates come home and tell the Germans what great things they



have done for them! They can vote without swearing. But perhaps the Germans may ask, "Can we vote for whom we choose, for ourselves, and for one another, for the school and road officers, or the office of constable or justice?" "No," they are told, "if you have the oath, you must choose Americans or those who are willing to take the oath for the sake of office, to see to your roads and schools, manage your town and county affairs, hold the fat offices, and serve you in the legislature." Will these Germans trust such men to do their business for them and will they ask a justice to go round and take their oaths and file them in the clerk's office, which he will do for a few cents for each oath? And is this all that they have done for the foreigners, in spite of the Whigs, as they would like to say, but as they must say—in spite of Messrs. Ryan, Strong, and Bevans, the best friends of the constitution?

And now they or their friends say that the Whigs hate the constitution because it does so much for the foreigners, and the Whigs will not let them vote if they can prevent it in another convention. They know this story is as false as it is absurd. I do not know a Whig or Democrat who is opposing the constitution on that ground. And I do not believe that there is one man in a hundred who expects that the privilege of foreigners will be more restricted by another convention, whatever many may have believed as to the right of the legislature to prescribe other qualifications for voters than those prescribed by the organic act.

Yours, etc.

JOHN H. TWEEDY

#### HONOR TO WISCONSIN

[April 13, 1847]

It is with heartfelt and unalloyed satisfaction that we announce the result of the recent election in this territory. Although some five or six counties and parts of counties remain to be heard from, it is sufficiently well ascertained that the people of Wisconsin by a majority almost unprecedented in the history of political contests have rejected the constitution submitted to their judgment and decision on the first Tuesday of April. The aggregate vote of the territory will probably reach if not exceed thirty thousand, and in this poll a majority of seven thousand have pronounced against the constitution. It is thus condemned by the voice of three out every five voters in the territory, a preponderance as decisive as it was unlooked for and as gratifying as it is decisive. The result is

one so honorable to our people and so fraught with the happiest promise for our territory that we dwell upon it with mingled feelings of pride and pleasure and hail it as a good omen, a glorious augury for Wisconsin. Nor can we consent to pass it by without some few brief reflections upon the prominent features which marked the contest and render memorable the victory.

Aside from the merits and demerits of the constitution itself, it is not to be denied that the champions of this instrument occupied the vantage ground in the struggle which has just closed. They had in their favor the strong desire everywhere felt throughout the territory to adopt a form of state government—a desire emphatically manifested by the almost unanimous vote of the people last spring in favor of calling a convention. They had on their side the entire Democratic press of the territory, ably, earnestly, and perseveringly directed to the same end, and with one or two exceptions treating the question as one involving the success and supremacy of the Democratic party. They were aided, too, by the consideration, all powerful with a large class of voters, that as a Democratic convention had framed the constitution, it became to some extent a matter of party pride if not of party interest to sustain and defend it. And they could count among their reliable forces upon the numerous and ever growing tribe of office seekers, the outs who want to be in, and who saw in the new order of things which a state government would bring about and in the large number of offices, great and small, to be filled so many inducements to individual effort and so many prizes for individual reward.

But not on such helps alone did the friends of the constitution rely to carry their point. They impressed into their service every local question which could be made available. At the north the much desired and long-wished-for improvement of the Fox and Wisconsin rivers was made to play its part in the contest. In this region the vexed question of the canal lands was dragged most unfairly and improperly into the arena. At the west the boundary was relied upon to turn the scale in favor of the constitution. The details of the instrument itself were designedly arranged upon the same plan and with a kindred purpose. It was confidently believed by the leading spirits of the convention that the exclusion of banks and bank paper would insure for their bantling the favor of the mineral region. The article defining the right of suffrage was avowedly shaped so as to secure, as was thought, the entire foreign vote. The forty-acre exemption was held up as an especial boon to the great farming interest of the territory and with its worthy yoke-

fellow, the provision which separated the interests and property of the wife from those of the husband, was offered as a bribe to all who could wish or consent to plead a constitutional enactment in bar of the payment of their just debts. Nor did the friends of the constitution fail to make the most of all these provisions in the canvass which preceded the election. Their presses and their speakers were equally industrious in urging their merits upon the people. The emigrant was told that another convention would restrict the right of suffrage and require a residence of five years, according to some, and of twenty-one years, according to others, as a prerequisite to citizenship. The farmer and mechanic were reminded that the exemption article securing the "homestead" from execution was meant for their especial benefit and merited their warm support. The laboring classes were assured that the constitution protected and promoted their interests, as distinct from those of other classes in the community. The old cry of the poor against the rich, of the employed against the employer, of labor against capital, the favorite weapon of the demagogue in every age and nation, was raised and reëchoed in all parts of the territory. And last, though not least, the name of Democracy was invoked and party cries were raised and party lines drawn wherever it could be done successfully in the confident expectation that men could be induced to support a constitution for party's sake, which they would not support for its own sake.

Far different arguments and considerations upon which the opponents of the constitution relied, and as the result has proved, relied successfully. They had no offices to promise those who should stand up with them in defense of the right. They held out no bribes to any class of voters to enlist their aid or secure their suffrages. They appealed to no unworthy passions or prejudices to help along the cause they had at heart. They sought not to array one class of citizens against another, natives against foreigners, rich against poor, merchants against farmers. They addressed themselves to the reason, the intelligence, the honesty, the patriotism of their fellow citizens, and, thank God, they spoke not in vain. Notwithstanding all the help derived from local questions in different parts of the territory—from those dishonest promptings which induced many a man to cast a secret ballot for the constitution because it opened wide the door to fraudulent concealment of property; from the successful appeals to the fears of the emigrants, who were taught to believe that their rights were in jeopardy; from the influence of the party press, the force of party discipline, and the strong feeling of



party pride and attachment which induces so many to support any measure, however obnoxious, rather than abandon their political associations—in spite of all these aids and appliances the constitution has been condemned and rejected by an overwhelming majority. Its friends and its opponents are alike amazed at the extent of the victory.

We glory in the result as one most creditable to the good sense of the people of Wisconsin. We rejoice over it as a severe but merited rebuke to the low groveling demagogism of the day. We regard it as an evidence that party is no longer all in all, as an earnest of better things to come. We believe that this vote will exercise the happiest influence upon the character and credit of our territory all over the Union. And we rely upon it as an unerring indication that no constitution will receive the sanction and support of the electors of Wisconsin which is not based upon equal rights and sound principles or which fails to secure universal education, universal suffrage, equal privileges, honest laws, and good government.

SELECTIONS FROM THE MILWAUKEE *COURIER*

## THE CONSTITUTION—No. 1

[January 6, 1847]

This document will be found at length in our paper of today. We need not bespeak for it an attentive perusal, for in a matter so deeply affecting the interests of all no doubt it will be thoroughly studied. We do not design discussing it at present; neither our time nor limits will permit. Ample opportunity will be afforded before voting on it, which opportunity we shall embrace. We will, however, say a word. The hue and cry has already gone forth that the constitution must and shall be defeated. We merely wish to say to the people—be not deceived, but look well to the sources from whence these denunciations and prognostications come. The new constitution will create a new order of things; this alone is sufficient to alarm the timid. But more particularly does it excite and alarm those in our midst who have not only lived but grown fat on the errors and evils existing under our territorial form of government. They deprecate a change of course, and particularly a change as beneficial as that which the new constitution promises to the mass. There are others, too, who from other motives are assisting in this hue and cry. Nearly every precinct has its Solon who will oppose not only this but any other constitution which may be framed without the benefit of his wisdom. That there are some who have made up their minds to oppose the new constitution from the best of motives we have no disposition to deny, but whilst we believe the great mass of the people have not yet made up their minds on the subject, we wish to caution them against the efforts of men whose interests are diametrically opposite to theirs.

We shall advocate the acceptance of the constitution. There are features, or at least one feature, to which we have objections, but we did not expect from the first that our views would be met in every particular. It is in the main a most excellent constitution, and we hope all who have objections—some to one feature and some to another—will ask themselves whether it is at all likely they will ever get a constitution in which all its provisions will fully accord with their views. The constitution itself provides for its own amendment with ease and facility, and should any provision of it militate against the good of the new state, there will be no difficulty in alter-

ing it; and if there be any feature or article of it not sufficiently full or definite, as the exemption article is now claimed to be by some, the legislature has full authority to remedy the difficulty.

### GENERAL KING VERSUS THE CONSTITUTION

[January 13, 1847]

With his usual fairness the editor of the *Sentinel and Gazette* has commenced his attacks upon the constitution now before the people of Wisconsin for their sanction or rejection. An article upon this subject, published in that paper on Thursday last, sets out with the implied falsehood that the *Courier* is the only champion for the constitution in the territory. To this we have but to reply that every Democratic paper in the territory, so far as we have seen, is in favor of its adoption. Whatever may be the difference of opinion upon some of its details, we are happy to find our Democratic contemporaries unanimously agreeing that general principles entitle it to support.

But the Little General charges us with endorsing it as a "party measure," and with appealing to the party alone for support, and says we do not invite the people at large to vote for it. If saying that it is entitled to the undivided support of every true Democrat will sustain these charges, then are we guilty of them and ready to abide the consequences. If worthy of the Democracy and entitled to their support, then is it entitled to general acceptance. Who are the "people at large" but the Democracy? It is to the "people at large," whose rights are protected by this instrument, that we look for its support. We would not of course appeal to blue-light Federalists, who believe that "the rich and well-born are alone qualified to manage the affairs of government," to sustain a constitution which guarantees equal rights to all, that presumes the "people at large" possess sufficient intelligence to judge for themselves what is best for their own interests, and therefore places the reins of government in the hands of the many—not in the hands of the few. This vital principle of the constitution we know is too radical for old Federalism and too progressive for some professed Democrats; but the "people at large" have a voice in the matter, and we expect therefore to see it sustained.

Old Federalism will contend that the "people at large" ought not to be trusted with the election of their judges—that they are not sufficiently intelligent to judge of a man's fitness to sit in judgment in matters of difference between man and man—that the "one-man



power" of appointments or the logrolling system of legislative elections is the only safeguard of judicial integrity. But we apprehend there will be few to acknowledge the correctness of this federal axiom. If the people know enough to be entrusted with the election of their governor and lawmakers, why not also of their judges? It has been long and well understood that the most corrupt source of power is that of legislative appointments, where each individual has some darling scheme of his own to carry out, and personal responsibility for bad appointments is never thought of.

Federalism cannot abide the provisions which guarantee the natural rights of women and exempt from forced sale the little homestead of the unfortunate poor man. Oh, no. What right has a man to be poor, in the first place, and being poor, what right has he to a shelter? To be sure the Progressives have so far carried out their principles that a rich Shylock can no longer incarcerate the body of an unfortunate debtor in the dungeon of a prison; but he clings with the pertinacity of the Venetian Jew to the "law" and the "bond" that gives him the right to turn his debtor into the open street.

These progressive features of the paramount law of Wisconsin we expect to see opposed by the sticklers for everything old and venerable. But the "people at large" are too sharp sighted to be misled by their croakings. The attempts to prejudice the public mind by personal attacks upon the framers of the constitution is a miserable shift and an insult to the understanding of the "people at large." And the quibbling about the *Courier* being the only champion of the constitution, and, again, that two or three of the Democratic papers are halting between two opinions, all show a recklessness worthy of the pupil of Thurlow Weed.

#### THE CONSTITUTION—No. 2

[January 13, 1847]

In the last *Courier* we stated that we intended to notice the different articles in this instrument at some length. In doing so we shall entirely disregard the foul-mouthed vaporings of the federal print of this city. We expect and without doubt our readers expect that anything which is truly Democratic will find a ready opponent in the *Sentinel and Gazette*. That paper but follows in the wake of the *National Intelligencer*, *Albany Evening Journal*, and kindred prints in assaults upon President Polk, the Mexican war, and in fact upon every measure that is based upon the principles of Democracy

or that emanates from the Democratic party. It is not surprising, therefore, that it should assault the late convention which assembled at Madison, or the constitution framed by it, composed as that body was almost entirely of Democrats, in which there were hardly Whigs enough to say "we." Nor is it surprising that it should term that body a "rump convention," or charge us with quixotism, or commit any other vagary however silly or absurd. The editors of that press make it their business to find fault with everything that emanates from a Democratic source; we expect it of them, and we do not object. "It was the Democratic bull that gored the Whig ox"—the constitution emanated from a body of Democrats. Therefore it must be wrong in the eyes of these Whig editors—hence the assaults of that press upon this instrument, and hence the opprobrious epithets heaped upon the convention, upon us and, we might say, upon the supporters of the constitution. Well, it is their business; let them go ahead. We expect their assaults; the hard-fisted Democracy of the territory expect to be assaulted, belied, misrepresented in that sheet. But neither we nor the Democracy fear such assaults; they are as idle and harmless as the winds. We know and they know that there is a strong, decided Democratic majority not only in Milwaukee County but in the territory and that any temporary success which may attend the Whig cause is to be obtained by a false issue, misrepresentation, party divisions, or, perchance, by the secret cooperation of our conservative postmaster and his baker's dozen of adherents (if he has so many) openly professing Democracy but secretly playing into the hands of federal Whiggery.

All such opposition we are prepared to meet and battle successfully. To them we say "Lay on, McDuff." Bring to bear your conservative allies, "Tray, Blanch, and Sweetheart." Let them all bark in unison—sound your battle cry, and come up to the polls in a fair fight, and in spite of all your federal thunder and conservative bawling the constitution will meet with the hearty support of and be adopted by the people with an overwhelming majority. We showed we think in last week's *Courier* conclusively that it is right to adopt it, and if defective in any of its provisions when put into operation, to amend it as the best and least expensive method of remedying its defects. Then there is no good reason why it should be rejected by the people. The *Sentinel and Gazette* does not attempt to give a reason for its rejection, nor can it, unless it be that it is politic for it as a Whig organ to oppose it, to make through such opposition Whig capital. If so, this would be strange policy indeed. The people to be taxed some forty of fifty thousand dollars and be de-



prived of the benefits of state government for two or three years to come—all to benefit the Whig cause!

The bank article! The sixth section! The small bills! This is the big little devil! This is the "tempest in a teapot!" We are to have no banking institutions to fatten upon the substance of the people! We cannot enact over the "wildcat" system of Michigan or the "red dog" system of Ohio. Our citizens cannot under this constitution, if adopted, be fleeced anew by such institutions as the Illinois banks, the Wisconsin Mineral Point West Union, and hosts of other banks that have, heretofore, so to speak, drawn out their life's blood.

Have these institutions been forgotten? Has the remembrance of such banks as "Sandtone," "Kensington," "Farmers Bank of Genesee County," "Cold Water," "Berrien County," etc., etc., entirely passed out of mind? Shall the presidents and cashiers of those broken-down shaving shops be again licensed by the sanction of law to shave our farmers and mechanics out of their hard earnings? No! We say emphatically no! Clap a stopper on these shaving shops! Adopt the constitution and the work is done. But more of the bank article hereafter. We intend to republish most of the articles entire and in detached form, as we wish to have them thoroughly read and canvassed by the peoples before voting upon them. This week we have selected the article on the elective franchise, which is as follows:

"Section 1. All male persons of the age of twenty-one years or upwards, belonging to any of the four following classes of persons and who shall have resided in this state for one year next preceding any election authorized by this constitution or any law, shall constitute the qualified electors at such election:

"First. All white citizens of the United States.

"Second. All white persons not citizens of the United States, who shall have declared their intention to become such in conformity with the laws of Congress for the naturalization of aliens and shall have taken before any officer of this state, authorized to administer oaths, and filed in the office of the clerk of any court of record in this state, or in counties where there may be no courts of record in the office of the clerk of the county, an oath to support the constitutions of the United States and of this state.

"Third. All Indians declared to be citizens of the United States by any law of Congress.

"Fourth. All civilized persons of the Indian blood not members of any tribe of Indians."



What objection has the *Sentinel and Gazette* to this article? Is it too liberal to our foreign population? Is this article wrong, and should the constitution be rejected because it has been inserted? By it all foreigners twenty-one years of age and upwards are entitled to vote, first declaring their intention to become citizens pursuant to the laws of the United States, provided they have resided one year within the territory or state previous to the time of voting. Does the *Sentinel and Gazette* object to this? We say this article is right, and so will the people say at the ballot box next April when they adopt the constitution by a thumping majority.

### THE EXEMPTION CLAUSE

[January 20, 1847]

“Section 2. Forty acres of land to be selected by the owner thereof, or the homestead of a family not exceeding forty acres, which said land or homestead shall not be included within any city or village and shall not exceed in value one thousand dollars, or instead thereof (at the option of the owner) any lot or lots in any city or village, being the homestead of a family and not exceeding in value one thousand dollars, owned and occupied by any resident of this state, shall not be subject to forced sale on execution for any debt or debts growing out of or founded upon contract either express or implied, made after the adoption of this constitution. *Provided*, That such exemption shall not affect in any manner any mechanic's or laborer's lien or any mortgage thereon lawfully obtained, nor shall the owner, if a married man, be at liberty to alienate such real estate unless by consent of the wife.”

The above is one of the provisions in the new constitution, against which the federal press in the territory takes the strongest grounds. Some of their most potent arguments are that it will destroy credit, throw open the door to fraud, and retard the collection of debts. We believe the effect will be quite the reverse, but let us for one moment examine the subject. All debts of whatever character that were contracted previous to the adoption of the constitution most certainly cannot be affected by it in any particular, the same property always remaining liable for the payment of the debt, that was liable at the time the debt was contracted. Any provision in the constitution of any state or any law enacted by the legislature of any state which could alter or vary this principle would be rendered nugatory by article I, section 10, clause first of the Constitution of the United States, which expressly declares

“that no state shall pass any ex post facto law or laws impairing the obligation of contracts.” Hence we perceive that the objectionable provision can in no wise affect the rights or interests of those who have or may give credit previous to the new constitution becoming the organic law.

Let us now inquire what will be the probable result after that period. The basis of credit is either character or property liable to execution, or both. If character alone is the basis of credit, then it follows of course that the pecuniary circumstances of the applicant for credit will not be inquired into, for he of whom the credit is asked relying confidently upon the integrity of the applicant feels that he would not wrong him by entering into any engagement which he would not be able to meet. If property alone is the basis of credit, then certainly the pecuniary circumstances of the applicant only would be inquired into. Now if character and property both form the basis of credit, which is nine times out of ten the fact, both will be inquired into—the character as far as it is good, and the property as far as it is tangible will have weight and no further. Therefore we cannot conceive how the creditor, if he exercises ordinary prudence, can be defrauded or deceived by anything contained in this provision, for surely, not having in the first instance placed any reliance upon the property exempt, he cannot suffer wrong or disappointment in not receiving from it any benefit.

Again, suppose the debtor creates liabilities which he is unable to meet. Would it not be to the advantage of his creditors that he be allowed to retain his humble homestead? We answer most decidedly in the affirmative for the very obvious reason that it would leave in his hands the means with which he would almost necessarily accumulate property which his creditors (if he would not voluntarily) could compel him to apply to the liquidation of his debts.

But on the other hand, strip a man of his all, surround him with the officers of the law ready to deprive him of every dollar as soon as acquired, and that man will either coolly and deliberately turn scoundrel and set himself about devising plans to evade what he deems harsh and tyrannical laws, or broken in spirit as well as in fortune will hopelessly lie down in his rags and there miserably die, his last moments embittered with the knowledge that he leaves his family houseless and homeless to the tender mercies of a cold and unfeeling world that never showed him sympathy. The spirit which actuates opposition to this provision in the constitution is not new; it is the same that the philanthropist in every age of the world has been obliged to contend with when urging forward any measure



calculated to benefit and elevate the laboring classes. It is the same spirit that in New York so strenuously and vehemently opposed the law abolishing imprisonment for debt; and the same arguments that were used by the opponents of that measure are now urged openly and boldly by the enemies of this. We trust in God that their opposition may prove as futile and the result as glorious. We call upon every friend of humanity and equal rights to sustain this measure. We call upon the rich to sustain it in the name of justice and for their own honor. We call upon every poor and laboring man to give it a noble and determined support, in duty to themselves, in duty to their families, in duty to their class.

THE *COURIER* CRITICIZED BY ANDREW E. ELMORE

[January 27, 1847]

Mukwonago, January 23, 1847

SIR: In answer to an article of the (I suppose Southport) *American* in your last paper you give as reasons for supporting the constitution, among others, that "It was framed by Democrats; it will receive the almost unanimous support of the Democratic party; we believe the people will adopt it because the universal Whig party oppose it."

Now, sir, it appears to me that those reasons for supporting the constitution are like those of the *Sentinel* for opposing it—very pitiful. No matter how bad anything may be coming from the Democrats, support it—seems to be the doctrine of the *Courier*. No matter how good it may be, if it comes from the Locofocos—oppose it, that of the *Sentinel*. Honest men who think despise such principles. It is not true that the universal Whig party oppose the constitution. That those who prefer that their party should be successful, if needs be at the expense of their country's welfare, oppose the constitution is true; but the mass of the producing Whigs with whom I have conversed go for its adoption, because, as a whole, it is a document worthy of their support and eminently calculated to place the producer where he should be—on a level with the "business man"; and because it is emphatically and truly a constitution for the man that works—the "toiling thousand." A majority of the Whig delegates to the convention, after its completion, openly proclaimed they would support the constitution and left Madison with this sentiment. I have heard from two of them only since the adjournment, and one, the veteran Drake of Columbia, is, my informant says, doing battle manfully for it, and who will accuse him of being anything else than a Whig?

Those delegates who were friends of the constitution when they left Madison and oppose it now will be branded by all honest men as they deserve, base, cowardly, and treacherous, for they prefer their party's success to their country's welfare.

I know that hundreds—I believe thousands—of Whigs will support the constitution, and in their name I demand that this communication be published wide as the slander that called it forth.

Yours, etc,

ANDREW E. ELMORE

Our friend Elmore is too quick in his application to make a good sermoniser. However, we acknowledge the justice of his position



and the truth of his remarks. But while we acknowledge so much, we claim that our object has not been to make the adoption of the constitution a partisan measure. In the first number of the *Courier* which was issued after the adjournment of the convention we recommended the constitution as worthy the support of Democrats. This, instead of giving offense to any, was intended for all who believe in constituting and administering government for the greatest number. We have urged the adoption of the constitution upon the ground that it goes further in protecting the rights of the masses than any state constitution which has heretofore been framed. In charging the "universal Whig party" with opposition we intend to be understood, in the usual acceptation of the term, as meaning the leaders of that party. The facts warrant us in saying that it was a deliberate and thoroughly concocted party scheme to oppose the constitution at all events, even before it was known what its details would be. This is proved by the course of the *Sentinel*, which commenced its attack upon the convention during the first week of its sitting, and also from the fact that all the Whig papers simultaneously attack the constitution without particularizing their ground of opposition. The town leaders of the "universal Whig party" have sent forth their fiat to the masses; it remains to be seen whether it will be obeyed. That there will be independence enough on the part of the people to consult their own interests in the matter we do believe and therefore confidently predict the adoption of the constitution.

#### CONCERNING THE "LORD'S DAY" CAUCUS

[January 27, 1847]

MUKWONAGO, January 26, 1847

To the Editor of the *Milwaukee Courier*:

SIR: The accompanying communication was sent to the editor of the *Sentinel* on the day of its date. It has not been published therein as requested. Will you insert it in the *Courier* as an act of justice to me?

Yours, etc.,

ANDREW E. ELMORE

MUKWONAGO, January 21, 1847

To the Editor of the *Milwaukee Sentinel*:

In your daily paper of the fifteenth instant, you call the attention of your readers to a communication of C. M. Baker and make sundry comments thereon. I have read the letter of Mr. Baker and your comments with attention and have been forced to the conclusion that your course in relation to this matter is, to say the least, ungenerous.

On Sunday evening, December 6, 1846, a caucus of the Whig members of the convention was held in the room in the capitol occupied by the Clerk of the District Court and the territorial Treasurer, the object of the caucus being to determine what course the Whigs should pursue on a certain measure to benefit the party.

I have it from good authority that you are not ignorant of that fact. Your denial of any knowledge of such caucus will, however, to me, prove perfectly satisfactory, and it will no doubt afford you much gratification to lash these "Sunday Caucus" Whigs as they deserve.

If you are altogether governed by motives of justice and a sense of duty you would of course be pleased to have me write you the facts in relation to the way the single district system was killed and how very handsomely one of the "Sunday Caucus" Whig members of the convention managed to put off his "fifty cent extra" scrip, and how this same gentleman from an ardent supporter of the constitution when he left Madison was transformed into an opponent.

Your very gentlemanly phrases, "rump convention," etc., the people duly appreciate, and, so far as my knowledge extends, are making converts for the constitution, as men who think for themselves appreciate such things rightly.

I request you to publish this communication, because it is well known I was present at the caucus on Sunday evening, December thirteenth, 1846, and I like manliness and hate hypocrisy.

Yours, etc.,

ANDREW E. ELMORE

### THE ELECTION OF JUDGES

[February 3, 1847]

An elective judiciary, it has been said, cannot be independent in their opinions. Judges dependent for their continuance in office upon popular favor will be biased in their opinions by the prejudices of the community. The first and obvious reply to this remark is that it applies with equal force against every elective office. Disguise it as we will, it is nothing more nor less than an argument against all elective governments. It is an argument which if carried out to its full extent in practice would result in the overthrow of republican institutions. Would not the advocates of hereditary power employ precisely the same reasoning to prove that we should have an hereditary executive? Would not they say that a king is independent and has no hopes or fears to restrain him from doing

what is right, whereas your presidents and governors elected at short intervals are constantly aiming at continuance in power and shaping their measures in reference to that result rather than the public good? Is it not an argument just as cogent and just as powerful against an elective executive as an elective judiciary?

But when we have stated that the argument applies with just as much force against electing other officers as against the election of judges we have stated the case feebly and imperfectly. For in truth it applies with vastly more force against the election of most other officers than judges for two reasons. In the first place judicial proceedings are peculiarly public. In the second place they are exposed to the keenest scrutiny. Nothing is done by judges in a corner, but whatever they do is transacted in the broad and clear light of day. Compare their powers with that of appointment and removal from office, which belongs to the executive in most states and which is exercised without the assignment of a reason; compare them with the powers involved in the transaction of public business in those offices, the proceedings of which the public are almost entirely ignorant of; compare the opportunities for favoritism or corruption possessed by judges with those of almost any other officer exercising any discretion, and the advantages for an abuse of power will be found altogether against the judiciary. They are interested, and keen, and anxious counsel to weigh every judicial opinion—to scrutinize every judicial reason. The duty of the judge is mainly to decide questions of law. If a judge on the circuit makes a wrong decision, a bill of exceptions is filed, the cause is transferred to a higher tribunal solicitous about their legal reputation, and his opinions are reversed. Who ever heard of such a road to consequence and popularity as a pavement formed by a series of erroneous decisions, detected, exposed, and published to the world as enduring evidence of the ignorance, imbecility, or corruption of the man by whom they were rendered?

If judges decided questions of fact there would be more force in the reasoning, for then corruption might be practiced to some extent without exposure—in decisions of law questions it is impossible.

Another consideration is that this imaginary independence of judges is not secured at all unless you prohibit their election to other offices. Is it not quite apparent that their independence will be just as likely to be destroyed by ambition for other offices as the desire of continuance in the present one? If they can secure popular favor and continue in office by foolish or corrupt decisions, they may in the same manner attain to other offices. The argument,



then, if it has any force, goes against electing judges to any public office. That, however, is not contended; for nobody proposes that persons holding the office of judge shall be ineligible to other offices. And if such a proposition were made it would be condemned by the practice of the whole country. For the instances are abundant of men who have occupied the executive chair in various states with distinguished ability—of men who are now ornaments to their country in the national Senate and House of Representatives and in the public departments at Washington, who have been removed from the bench to the present or other public stations. Now we should like to hear some distinct and intelligible reason assigned, how the impartiality of judges can be impaired by dependence upon the people for continuance in that office and yet be unaffected by eligibility to other offices of which they may be ambitious.

The influence upon judicial impartiality of electing judicial officers has been fairly tested in the cases of justices of the peace and judges of probate. In several states of the Union these offices have been elected [elective], and the system has met in these states with almost universal approbation. To say that those offices are comparatively unimportant would be no sufficient answer, if the remark were true in point of fact; the principle is precisely the same. If electing judicial officers will destroy their independence, then none should be elected. But their offices are not so unimportant; once in about every thirty years all the property of the United States passes or should pass through a course of administration in the offices of the several judges of probate or of those exercising their functions. And as to justices of the peace, although they do not decide cases of equal magnitude with those in other courts, they settle a larger number and fix the title to a much larger amount of property in the aggregate.

Among all the complaints that we have overheard about justices of the peace—and disappointed litigants are free to make them, and they are almost always unreasonable—among all the bad motives which we have heard imputed in a moment of excitement, we do not recollect a solitary instance in which a justice has been charged with acting with a view to political results.

Much more is to be dreaded from dependence of judges upon executive appointments than popular election. The executive may often have an interest in opposition to that of the mass; he may have a strong anxiety in particular cases for the acquittal of the guilty or the conviction of the innocent. The people can have no anxiety except for a righteous decision.

GRAND RALLY FOR THE CONSTITUTION—THE MULTITUDE  
IN MOTION

[February 24, 1847]

On Saturday evening pursuant to a call which was posted during the forenoon of that day the Democracy of Milwaukee—the laborers, the producers, the hard-fisted and true-hearted sons of humanity—rallied in their strength to testify their approbation of the constitution that has been framed for the state of Wisconsin—a constitution which carries out in letter and spirit those great principles of equal rights which all politicians profess to believe in. The voters assembled in their several wards and marched to the Milwaukee House, led by their several ward marshals as follows: Those of the first ward by Colonel Upmann; second ward, by R. N. Messenger; third ward, by M. Walsh; fourth ward, by John E. Cameron; fifth ward, by R. Allen. They were there formed in procession by Gen. A. W. Starks and marched to the courthouse, led by the fine German Band, and accompanied by torches.

On arriving at the courthouse that spacious building was immediately filled—literally packed full,—court-room, hall, stairways, and vestibule—and still a large crowd were entirely unable to obtain a shelter from the cutting northeast wind, which was blowing almost a hurricane, and were consequently obliged to retire. The meeting was called to order by Wm. P. Lynde Esq.; Hon. John P. Helfenstein was chosen chairman by acclamation, and R. N. Messenger and J. G. Barr appointed secretaries.

The Chairman opened the meeting with a few pertinent remarks, when A. D. Smith moved the appointment of a committee of five to draft resolutions. The following gentlemen were appointed said committee: A. D. Smith, L. Hubbell, J. A. Brown, M. Walsh, and M. Schoeffler.

A. D. Smith, being loudly called for, arose and addressed the multitude in his usual felicitous and eloquent manner. His remarks elicited frequent and enthusiastic cheers.

At the conclusion of Mr. Smith's remarks I. P. Walker was enthusiastically called for, who in a powerful argumentative speech showed the superiority of the constitution now presented to the people of Wisconsin over any other one that had ever been framed. He briefly traced the progressive spirit of civil liberty from the days of barbarism, through the dimly lighted pathway of feudal slavery, to the broader light of constitutional laws, and showed the struggles

that it had encountered in all ages through the selfishness of the interested few who have ever attempted, and generally too successfully, to live upon the earnings of the masses. He showed that the same spirit of selfishness was at work to defeat this constitution which has taken another advance step in human rights. Mr. Walker closed with a most thrilling appeal to the laboring multitude, the friends of humanity—the philanthropist and the patriot—to rally in its defense. His speech was received with the most rapturous applause.

The committee on resolutions reported through their chairman, General Hubbell, the following resolutions, which were received with every demonstration of approval and enthusiasm:

*“Resolved,* That in the opinion of this meeting the adoption of the constitution framed by the recent convention at Madison will secure the essential rights and promote the best interests of the people of Wisconsin; while it is the only means of effecting a speedy termination of their present territorial vassalage; that entertaining these views we intend to vote for it, to work for it, and to recommend it to our friends throughout the territory with all earnestness and energy until its final triumph on the first Tuesday of April next.

*“Resolved,* That we hail the great leading features of the proposed constitution as presenting the surest, soundest, and broadest platform of civil and religious liberty ever yet laid before the world; and we deem their preservation inestimably more precious than the correction of a few alleged defects, which time and trial may yet approve, or which the people can alter, amend, or eradicate in their own time and way.

*“Resolved,* That while we accord to every independent elector the right to think and act for himself, and while we freely admit that objections exist in different minds against different portions of the constitution, we cannot regard those differences as forming any sufficient ground for opposing the whole instrument or for subjecting the people to the danger, the delay, and the expense of a new trial, for the doubtful chance of a better instrument.

*“Resolved,* That Milwaukee County is essentially and unchangeably devoted to the great principles embodied in the present constitution; and notwithstanding the interested clamors of a few in one party and the reviving hopes of a slender majority in the other, we entertain the fullest confidence that the sober sense and sound patriotism of the masses will give to that instrument a clear and decisive majority at the coming election in this county.



*Resolved*, That in view of the invaluable rights and interests involved in the adoption or rejection of the proposed constitution, we invoke to the subject the candid, cool, and enlightened consideration of men of all parties; we ask them to examine the ground on which they stand and to determine for themselves whether the result of a rejection of this instrument will not be disastrous to the public peace, fruitful in strife and division, prolific of debt and taxation, and possibly the first step towards a form of government hostile to the best interests of the sovereign people.

*Resolved*, That the occasion calls for the best energies of the friends of popular government; that we call upon them to be up and doing; that we invoke upon their efforts a spirit of harmony, concession, and honorable union; that we pledge ourselves to one another and to the people of the territory to act upon these principles, and to give to the constitution our hearty, united, and untiring support, until the ballot boxes shall tell the final result."

The Chairman followed the reading of the resolutions with a short and brilliant speech, pointing out the great leading features of the constitution—which, over and above all minor defects and objections, should command for it the prompt and unyielding support of the masses and crown it with triumphant success.

William P. Lynde, being unanimously called for, came forward and in his happiest style answered to the call. His remarks upon the bank article of the constitution were most lucid and convincing. He showed that the circulating medium, the currency of Wisconsin, was all derived from two sources: emigration and the surplus products of the soil. That emigrants generally brought gold and silver, and our products would bring the same currency if demanded; that the market of the world, into which our breadstuffs are taken, is governed by a specie standard, and any cheaper currency only defrauds the producer to the full amount of the difference in value between gold and silver and depreciated bank issues. Anything like a fair report of Mr. Lynde's speech cannot be given in the limits of this article.

After he had closed a general call was made for Mr. Coon, when the meeting was informed that Mr. Coon had left on account of sickness in his family. Mr. William K. Wilson was then called for, but it was ascertained that he had also left, not being able to get into the house. The crowd then called for Mr. Mattheison, who rose and made a brief speech in favor of the constitution as it is, and appealed particularly to the adopted citizens to come forward to its support. Hearty cheering followed his remarks, when a motion was made to

adjourn. Previous to putting this motion three cheers for the constitution were called for and given with a hearty goodwill and power that nearly raised the roof of the building.

The meeting then adjourned.

JOHN P. HELFENSTEIN, Chairman

R. N. MESSENGER

JOHN G. BARR, Secretaries.

After the adjournment the procession was again formed and marched to the *Courier* office, where three hearty cheers were given for the constitution and its defenders, when the crowd dispersed in the best spirit and in the highest degree satisfied with the result of this demonstration of the sovereign people in behalf of their constitution.

#### REVIEW OF MARSHALL M. STRONG'S SPEECH <sup>23</sup>

[February 24, 1847]

A friend from Madison has furnished us the speech of this honorable gentleman. It is said to be *the* speech of the session. It is undoubtedly the speech of the *last* session of our territorial legislature. We have read it carefully. It is the work of much time and care, evidently the masterwork of the man—the essay, not the speech—the labored apology of a man struggling under the conviction of wrong, too cold to be subdued by conscientious admonition, unwilling to retrace his erring steps, and madly striving “to make the wrong appear the better cause.”

In every great effort of mind, whether that mind be great or small, it impresses its own features upon its offspring, sometimes under a disguise more or less successful, but not the less discoverable to him who will carefully penetrate it. So it is here. The author's self, heart, conscience, social character look out from every paragraph and exhibit the same cold indifference to human want, the same unsympathizing spectator of human hopes or fears, the impenetrable self, the calculating politician, the unmitigated lawyer. It is, in short, the speech of the honorable gentleman, made for his purpose,

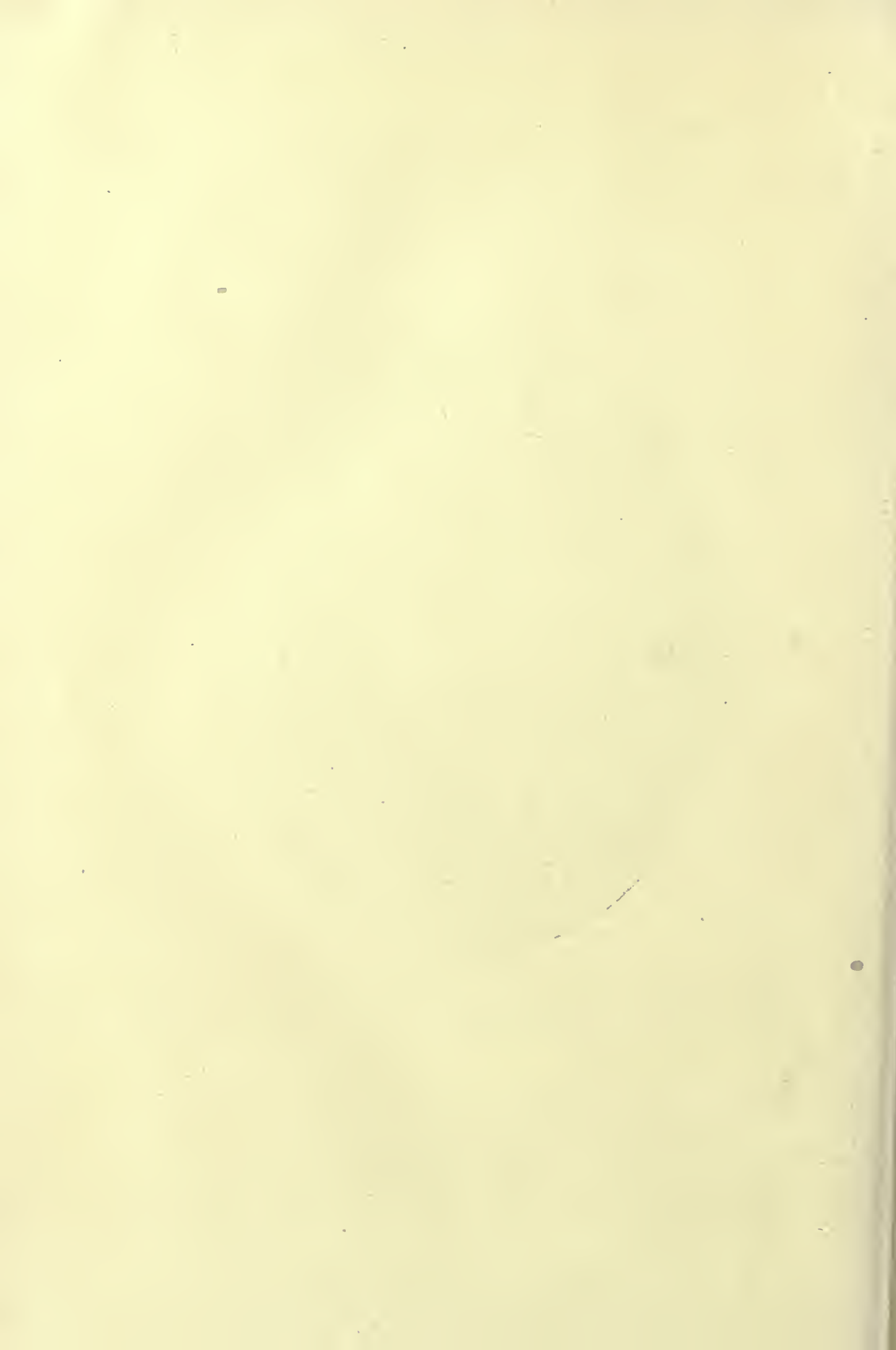
<sup>23</sup> According to the *Courier* this “eloquent and logical article” was written by A. D. Smith of Milwaukee. “Although it was prepared for the press in two days after Mr. Strong's speech was placed in his hand, and that, too, without neglecting the duties of his profession, yet no gentleman will disagree with us when we pronounce it an elegant piece of composition; and we think no unprejudiced mind can deny that it is a full and masterly answer to the cold sophistries of ‘the gentleman from Racine.’ Read it, ye friends of humanity. Read it, ye wives, mothers, and daughters of Wisconsin. Read it, all ye who are honestly halting between two opinions in relation to the constitution.”



ABRAM DANIEL SMITH

From a daguerreotype in the Wisconsin Historical Library





to meet his case, without one care or thought for the people to whom it is addressed. It is the mirror of the man, mad with everything good because he made it not, and raging at every instance of faithfully executed trust because in a pet he betrayed his own. The speech is the portrait of the author. In reviewing the one we must unavoidably notice the prominent features of the other.

We are told by the gentleman in the outset that the convention that framed the constitution was too numerous. This is always the cry against adequate popular representation. Shut the mouths of the people and their immediate representatives and open the lips of the oracular few. Let not the masses speak lest brute passion sway them from sober thought. It is only the select one that is competent to declare the wishes and calmly exercise the thought of the many. This everlasting distrust of the people, this abominable propensity, inborn in some, to degrade the understanding and scandalize the integrity of the masses of the people appears in every paragraph.

The gentleman contends that wisdom, intelligence, sobriety, and coolness are to be found only in the few, while passion, corruption, and dishonesty are the legitimate fruits of the labors of the many. The reverse of this has always been the fact. When did the masses ever commit a wrong until they were first deceived by the corrupt few? Even in the cases presented in illustration by the gentleman, the banishment of Aristides and the execution of Socrates? Another example more eminent than either of these, the condemnation of Jesus Christ. The chief officers of the Jews as well as of the Roman government were obliged first to resort to the subornation of witnesses to substantiate the charge of crime against Him before they could bring the masses of the people to acquiesce in His crucifixion. Even at this day political intriguers and demagogues are constrained to efforts of deception to give an air of honesty to their schemes before the people ere they can hope for success. They never array their selfish designs before the masses because they know well the rebuke, prompt and effectual, with which they will be met. Can there be a higher, more truthful, though involuntary compliment paid to the integrity of the masses of the people?

If, then, the intelligence of the masses of the people is provided for by the fundamental law, the practice of deception is rendered difficult. If the mass, then, are intelligent and honest, by increasing the number of their representatives we certainly obtain a larger amount of virtue and intelligence in the representative body.

It would undoubtedly be quite agreeable to the gentleman and his peculiar friends could he and fifty others holding similar doctrines be commissioned to frame a constitution for the people of Wisconsin. But we apprehend they have more reliable material and are quite satisfied to select their own agents for that purpose.

But how are we to hope for a better convention or a more peaceable one? He tells us that the late convention divided into two factions. It is well known that those factions consisted of but a very few upon a side. The great body of the convention were very far from being factious. If so, how, then, can the gentleman assure us that fifty-two will be less factious than were one hundred? While arithmetical calculation leaves us quite in the dark as to the solution, metaphysical inquiry is equally at fault. If twenty men in the last convention divided into factions, how will fifty-two in the next escape? Will the next convention do better? Will they be more stable? The gentleman, undoubtedly, will be one of the fifty-two. Was he not factious? Did he not divide off with one or the other of the factions? And, if he did so, then what would save him from a like catastrophe another time? And if he of necessity falls, who can hope to stand? Will the fifty-two be more stable? The gentleman voted for the sixth section of the bank article. He says he afterwards desired to vote for striking it out upon the final revision, but previous to that time got in a pet, resigned, and went home. Will he vote for that section at the commencement of another convention? If so, will he vote to strike it out at the close? Or will he again flare up because fifty-one are more in number than himself and fly the pit? It is fair that we judge of this cool collection of fifty-two by the coolness and stability of their advocate and representative. And, verily, we are constrained to say we are satisfied with this sample.

Again he says the late convention was like four horses in a team, no two of which would work together. We leave it to the gentleman to say who kicked over the traces, who slipped his bridle and broke from the team. Certainly a large majority of the convention did work well together and accomplished the work committed to their charge, especially after the balky jades were unharnessed and let go.

Thus much for the remarks of the gentleman upon the convention. It will be borne in mind that this essay of the honorable gentleman was delivered upon the bill in the Council, providing for a new convention. But the essay is upon the constitution—a labored excuse for opposing it—a great effort of small material to get a position and define it. It is a pity the effort is an unsuccessful one.



The objections of the gentleman to the constitution, are: First, the article in relation to the rights of married women and exemption; second, the bank article; third, the number of representatives in the legislature; fourth, the elective judiciary.

These we propose to notice in their order. In doing so we desire not to be personal. But we both desire and intend to treat the subject with freedom and candor. Mr. Strong has traveled out of the way to write an essay against the constitution, deliver it as a speech in the legislative council, procured thousands of copies to be printed and circulated among the people to influence their votes upon the constitution. By his own work he shall be measured—by his own standard tried—by his own course shall he be judged.

It was the design of a certain party of men homogeneous in feeling, though casually separated by party division, to excite all possible prejudice against the convention, hoping, no doubt, that the people would overlook the merits of the constitution in their dislike to the body that framed it. They seek a false issue. They wish to arraign and try the convention and not the constitution. But be it understood that the people well know the subject of their consideration. It is the constitution, and the constitution only.

A fundamental law for any people must necessarily be one of compromise of individual preference and opinion. The great question is whether we shall have a constitution agreed upon by mutual concession, or whether by every man adhering rigidly to every minute preference we shall deny ourselves the blessings of a written constitution. He who expects the adoption of a constitution without deferring in some respects his own opinion to others, that others may in turn defer theirs to him, is but a poor judge of human nature and doomed to disappointment.

If the opinions of all men were the same, we should require no law, for all mankind would instinctively move in harmony. The fact of diversity admitted, the necessity of government is implied. Popular government is the harmonizing of the mass of mind by mutual concession and forbearance upon great principles and measures for the regulation and government of the whole. The constitution of the Union and that of every state in the Union have been framed and adopted upon these principles.

Guided by this policy we proceed to notice the objections urged by Mr. Strong. Mr. Strong says, "If the wife is to hold a separate property she must have the means of protecting it. If it is trespassed upon, she must be able to bring suits in her own name. She will then be sole plaintiff. She must have the power of suing

him (the husband) as well as others. If he interferes with it, she may sue him in trespass and confine him in jail on execution, for imprisonment is allowed in tort."

We have here grouped together more idle objections and puerile scarecrows than we had supposed the most inveterate woman hater or woman fearer could conjure up. This is the first gun of a gallant captain of a gallant host. Before its thunder is lost in the rustling of silks and dimity, it is but fair that we let him fire his last. He says: "It is fabled that once upon a time a rooster crowed as follows: 'Women rule here,' and another at an adjoining house replied 'So they do here,' while still another one chimed in 'So they do everywhere.' "

The gallant gentleman and his three roosters are a formidable host indeed for poor, unprotected woman to encounter. We are willing to face a fearful foe in her defense, but when our hero advances backed up by three cocks all crested, spurred, and crowing the array is too appalling. The sternest must quail before such exhibitions of prowess. It requires more than a Hercules to stand before such a commander of such a force. And if pantaloons and epaulets fly panic stricken, what consternation must they carry among laces and ribbons! The whole drift of the argument is that there is reason to apprehend the rule of women. And it is not a little remarkable that the gentleman's modesty deterred him from assuming its paternity, and induced him to add to its weight by putting it into the mouths of three roosters. The cackling of geese saved Rome, but the crowing of roosters is to be the salvation of Wisconsin. Hereafter, let every chivalrous son of the Badger State sleep with his ears open, and if he hears a cock crow let him fly to arms, for the women are upon him. The objection is that if a woman's rights of property are trespassed upon, the law will give her redress. This is seriously imputed by the learned gentleman as a vital objection. But pray, sir, would you not give her the protection of the law at all? Would you dehumanize her? Would you deny her a legal existence? This monstrous doctrine reduces her to a condition worse than the slave of the South. We had supposed it was the design of popular government to extend security of person and property to all. We had supposed it was no harm for a woman to invoke the laws of her country in her behalf. But the gentleman's democracy is of such nice texture that in his estimation the law would be degraded by lending its protection to woman.

But "she can be sole plaintiff." This is not true. But if it were, what of it? Suppose her person is injured, what is her remedy now?

Clearly she may sue for her redress jointly with her husband, it is true. But nevertheless "her name is dragged before court," to use the delicate and gentlemanly phraseology that has become fashionable of late. The husband may sue alone, but only recover damage for the loss of service of his wife. The same rights are by this proceeding guaranteed to the husband's wife that are guaranteed to the husband's horse. Yet Mr. Strong reasons that it would unsex the woman to elevate her in the estimation of the law above the condition of a favorite pony. Human patience is hardly equal to reasoning upon such monstrosities. Manly sensibility is goaded to the quick when such sentiments are uttered with such unblushing hardihood. Every fiber of a generous, manly heart quivers with indignation when his wife, his mother, his sister, his daughter are traduced by such foul calumny upon womanhood. Did this gallant gentleman ever mourn over unsexed woman when he brought her into court by foreclosing a mortgage? Oh! no! Not at all. That act is sanctified by the lawyer's fees in prospect. She may come to court as defendant, but not as plaintiff. She may be dragged before courts and juries for the purpose of divesting her of her property, but it is a sin for her to appear there, even in name, for the purpose of protecting her property. To such ridiculous absurdity is Mr. Strong driven in defense of his more ridiculous position.

Again, we are told if the husband interferes with her property, she may sue him and confine him in jail, for imprisonment is allowed for tort. And is not imprisonment allowed for assault and battery now? If a man beats his wife with "a stick larger than his thumb," may she not by the existing law complain of him, be a witness against him, and confine him in prison? But the gentleman may reply that it is not very likely that an affectionate husband, knowing the law, will beat her with a stick bigger than his thumb. Granted, and we, too, say that it is not likely that the affectionate husband will have occasion to interfere unjustly with his wife's property.

But it is not true that the wife may under the constitution sue the husband in trespass for interfering with his wife's property. There is not one word of truth in the statement. The constitution provides for no such proceeding or for any proceeding, but simply makes it the duty of the legislature to pass laws clearly defining her rights and providing appropriate means for protecting those rights. When the statute does not repeal or abolish the common law the latter is the law of the land. By that law all injuries to the wife's property are to be redressed by suit brought by the husband and



wife jointly. The constitution does not alter the common law one particle in this respect. Her rights are declared the same as any other rights are declared, but the remedy for her wrongs is left to the common law and the legislature, precisely where all other remedies for wrongs and injuries are left. It is surprising that a man of Mr. Strong's standing should have thus trifled with fact. Our astonishment continues to increase till we read his opinion that the people are incompetent to elect their judges.

Again, Mr. Strong says, "She can form a partnership in business with her husband under the name of 'John Doe, Wife, and Tom Nokes,' or she may form a partnership with Nokes alone, or with others added, or they may be dormant partners, and it will be none of the husband's business who are her partners or paramours."

A beautiful compliment to the women of Wisconsin! We doubt not they will appreciate his chasteness of thought and elegance of diction! We are at a loss which most to admire—the depth of argument or delicacy of expression! On reading this all would be convinced, if all were not charmed. The roosters are not a priming to their excelling chief. They must doff their crest, for an army of cocks would vote to him the comb.

There are some men, at least now and then one, who are so void of confiding affection, so unloving and unlovable themselves, that they are eternally calumniating women. Conscious that they are devoid of every quality to excite affection or secure or deserve esteem they can never think of wife or sister without associations of infidelity and paramours. Born in a snowdrift and cradled upon an iceberg they see the sunshine of domestic love all around them but feel not its power. They look upon every demonstration of confidence or devotion with distrust because they have no heart to sympathize with its exercise. They are excited to jealousy at every manifestation of affection, because they feel they do not deserve it. They marry for profit and remain husbands that they may continue tyrants. They not only appropriate the wife's property, but despoil her of her affections. They would be supremely wretched did they not render their wives so. They would be jealous of their own shadow were they not conscious that it is as unfeeling as themselves. Deriving character and consequence from pantaloons they conceive of no means to sustain their position but by contemning petticoats. Prevented by law or cowardice from trampling upon the rights of men, they cling with deathly grasp to the power of tyrannizing over woman. When others would rescue their victims, they marshal their roosters and rush to the fight, not with her deliverers,

but with woman still. In their view nothing is so terrible as an uncaged woman. Unchain the lion, let loose the tiger, but there can be no security for breeches while a petticoat flutters in the breeze! If there is a contemptible object on earth, it is that man who seeks the weapons of the law with which to govern his own household.

But the calumny of Mr. Strong upon women is no less than his perversion of the constitution which he seeks to overthrow. It authorizes no partnership in business between the husband and wife. It sanctions no partnership between the wife and another. But it does proclaim the doctrine that a woman may be trusted with property. Mr. Strong declares that her virtue depends upon her destitution. The constitution attributes it to a higher source. Mr. Strong declares, "Put a penny in her pocket and she will rush into licentiousness." The constitution implies that she will use her little means for the comfort of her family. Mr. Strong would have us believe that the man creates within her all those high moral sentiments, those generous and delicate sensibilities which so eminently distinguish her. The constitution attributes their source to the God that made her. Which is right? Tell us, ye husbands, fathers, and brothers of Wisconsin. Tell us, wives, mothers, and sisters, which is right? Is woman, as is alleged, naturally bad, dissolute, corrupt, seeking only opportunity, means, and impunity to rush into all manner of crime and infamy? This is the argument and the only argument of the opponents of this article of the constitution. The only means of preserving her conjugal fidelity, her maternal love, her tender regard for all her household is to despoil her on her marriage of all her property. People of Wisconsin, is this your estimate of her character? Will you sanction this foul slander upon your wives, sisters, and daughters by rejecting this constitution?

Let us now turn to the justice of this article. God has assigned to woman the important function of bearing and rearing children. To secure the performance of this function He has implanted within her affections which no external circumstances can eradicate or repress. When her affections are placed upon the man of her choice she clings to him through every trial. He never sinks so low that her love does not follow him. Does adversity level its shafts at him, she who would tremble like an aspen at the approach of danger interposes her feeble frame to shield him. She bids defiance to cold, hunger, pestilence, and dungeon, and courts the blow that would fall on him. She makes him the father of her children, and he and they become her heart's idols. Is it right that she be doomed to bear and rear children for the state and nation, and the state de-



prive her of the means of feeding and clothing them? Is it just that on her becoming a wife and mother she shall be despoiled of the means of sustaining herself and children? Should the husband die, is it just to turn her out from the loved home, consecrated by the birth of her children and the death of her husband, upon the cold charity of the world? Is it right to strip her of the little substance which a father or mother or brother may have bequeathed her? Fellow citizens, these are questions which your hearts have already answered, however you may vote on the constitution. We know that it is easy for lawyers to talk of debtor and creditor. We have seen a miserable shack of the law order a levy upon and strip the cradle of baby linen while the heartbroken mother was convulsed in agony. But God in righteous retribution stript his fireside of wife and his cradle of his child. The heart that can feel will assert its right to its holy sympathies, and the voice of humanity cries louder than the jingle of pennies. He that is born has a right to live and having the right must have whereon to live. She who bears the state a son or daughter earns a title to its subsistence, and the generous sons of Wisconsin will acknowledge her title.

It is well known that the property of married women in this state will consist of articles of small value. The father gives a couple of cows, ten sheep; the mother, household furniture, beds, spoons, and housekeeping apparatus. Perhaps a small lot may also be bestowed. These are given her at the time of leaving the paternal roof to enter upon a new sphere of existence. If misfortune come upon the young pair, their little sanctuary of home may be entered, the articles of comfort and necessity which parents provided wrested from them and sold for less than enough to pay lawyer's and sheriff's fees, the family turned out of doors and left without a shelter or place to lay their heads. This, too, at a period in a woman's life, the most eventful and trying and most decisive of her destiny.

Follow this pair, once so full of hope and vigor. The husband struggles manfully with his hard fortune. The wife, uncomplaining, conceals the arrow that has entered her soul. By hard industry he has found another home and gathered about it the means of support. Hope again beams upon their pathway, joy lights up the countenance of the wife, and manly confidence rests upon the brow of the husband. They look back upon the past and feel that the joy of the present is heightened by the retrospect. In the midst of their mutual congratulations a knock is heard at the door. Again the officer of the law appears, seizes upon their homestead and



household goods, again to pay not a debt, but lawyer's and sheriff's fees.

Follow on the pair once and again so full of hope. There are few who know how much of woe the heart can bear. Many try the experiment but sink under its weight. The wife is again a houseless wanderer and as such sinks to her grave. The husband in despair rushes to the cup or other mad and bewildering excitement. The children are inmates of the almshouse, supported, that is to say, kept alive, at the public expense. Now who has gained by all this wreck of human happiness? The creditor is not yet paid. The lawyer's and sheriff's fees have again accumulated. Who has profited by the sacrifice? The state has lost a family, children have lost father and mother, and God has lost His image in the down-trodden man.

This man cannot be sincere in his arguments. No man who believes his own arguments and advances them in sincerity puts forth one which contradicts another. In one place he says that this provision "will curse woman," will reduce the husband to the condition of a mere "man about the house"; "woman is to be transferred from her appropriate domestic sphere, taken away from her children, and cast rudely into the strifes and turmoil of the world, there to have her finer sensibilities blunted, the ruling motives of her mind changed, and every trait of loveliness blotted out." If the gentleman believes himself, he believes that to endow the woman with her own property will at once estrange her from her husband and make her the master. But see how beautifully the different parts of his machinery fit together. A little further on he says:

"There have been hard cases, undoubtedly, where the wife's property has been taken for the husband's debts, although I have never heard of one such case in the territory. But in nine cases out of ten this section would not remedy the evil, for a confiding wife being overpersuaded by a persevering husband would place her property under his control. In order to cure these evils, which are of rare occurrence, and in most cases not chargeable to the laws, the husband is to be degraded, the wife unsexed, the children uncared for, the creditor defrauded, and the laws confounded."

Were ever more absurdities and contradictions huddled together? First, the constitutional provision will not have its intended effect because in nine cases out of ten the wife will give her husband control of the property. Then in the next breath the husband is to be degraded by her retaining it. She will not avail

herself of the law, and yet the law will unsex her. She will commit her property to the control of her husband, and yet she is to be taken from her children to take care of it herself. She will be persuaded to confide her property to the husband, and yet she will ride roughshod over him. He is all-powerful over her, and yet she makes him a mere convenience, a man about the house. Are the people to be duped by such contradictory nonsense? Is this the "Daniel come to judgment?" Truly the great poet was right when he said

He that stands upon a slippery place  
Makes nice at no vile hold to stay him up.

Mr. Strong attributes the universal respect paid to woman in this country to the effect of the present laws, and he says that it is remarked by English travelers that she may travel over the Union alone and without insult. It is so remarkable that it has attracted the attention of Englishmen. To show the sophistry of the argument, it is only necessary to know that the law of England touching the rights of women is the same as in this country. If the women of England are not safe from insult while those of America are it must be attributed to some other cause than the laws, for the laws of the two countries are precisely the same. Equally sophistical is his reason assigned for the infidelity of the women of France. He says one-fourth of the children of Paris are illegitimate, and he alleges the laws in relation to the property of married women as the cause. But it so happens that the ratio of illegitimate children in London is about the same as in Paris. The law of the two cities is widely different, and yet there is the same result in both. Hence the law of France cannot be the cause of French licentiousness. Much has been written upon this feature of Parisian society, but Mr. Strong is the first who has ever thought of attributing it to the fact that women could hold property. Again, the same law prevails in Germany as in France, and yet the German women are proverbial for their conjugal fidelity. It is clear that the gentleman's premises are false, his conclusions erroneous, and the whole tissue of his dissertation fallacious.

If this article is so absurd and monstrous as the gentleman would have us believe, is it not surprising that the same provisions are now before the legislatures of New York, Pennsylvania, and New Jersey and Missouri? That it has already passed the legislature of Arkansas and is urging its way by the power of its intrinsic justice and merit to universal adoption?

But it is claimed that this article opens the door to fraud, and it is gravely asserted by many that the husband in failing circum-

stances will convey his property to his wife, either directly or through the medium of an accomplice in the fraud. We here insert the article that all may see whether the opponents give a fair, honest, and candid interpretation of it or whether their intention is to misrepresent it and to deceive the people:

“Section 1. All property, real and personal, of the wife, owned by her at the time of her marriage, and also that acquired by her after marriage by gift, devise, descent, or otherwise than from her husband shall be her separate property. Laws shall be passed providing for the registry of the wife’s property and more clearly defining the rights of the wife thereto, as well as to property held by her with her husband, and for carrying out the provisions of this section. Where the wife has a separate property from that of the husband, the same shall be liable for the debts of the wife contracted before marriage.”

It will be seen that the wife by this article can acquire no property whatever from her husband. But it is said the husband may convey it to a third person and he to the wife. In such case it comes from the husband and is not hers. It is fraud upon the law and the conveyance void, and chancery process will reach it either in the hands of the wife or the third person. But this article effectually closes the door to fraud, because the parties are compelled to provide a witness to their fraud. The third person employed to convey to the wife is the witness to the transaction and will be compelled to disclose its real nature. Laws which open the door to fraud do not provide witnesses to detect and expose it.

As the law now stands failing debtors convey their property to friends to prevent it being taken on execution. But adopt this article and you close the door upon such fraudulent devices. Adopt the exemption article and you give men the means to live and pay their debts and thus remove all inducements to practice such shifts and devices to avoid starvation or extreme penury. Mr. Strong couples the exemption section with the one in relation to the rights of married women and levels at both an indiscriminate denunciation. Whether his anathemas are just, a brief exposition of the policy and operation of our constitutional provision will enable us to judge.

The laws in relation to debtor and creditor have very much changed as civilization has advanced. At one time the debtor might be sold into slavery to satisfy the demand of his creditor. Again, the fangs of the law fastened upon his corpse and forbade its burial until his relations or friends had paid his debts. Again, rising a little in the scale of humanity, the corpse might be interred,



indeed, but the living debtor might be buried in jail during his life without hope of exchanging his abode except for the grave. Within the last century imprisonment has been abolished, but the hands of the debtor effectually bound, because even his daily wages were declared to belong to his creditor, and when night came he found his bed, pillow, and blanket in the hands of the bailiff, and his wife and children houseless, homeless beggars. Another advance, still, was made, and a few articles of household furniture and a suit of clothes were exempted from execution. But of what avail to wife and children the cups and saucers, when they were deprived of a place to use them? Of what avail knives and forks, when the meat purchased by the husband with the wages of the day's labor would be taken by the constable on his way home? The humanity of the opponents of this section will give the poor man a bed, but he must spread it upon a snowdrift. They will spare the baby linen, but the baby must look to the heavens for shelter. They will not confine the poor man in jail but they will deny him a place on God's footstool. They will leave his person free but will not give him a place to rest his head. They will call his hands his own but will seize daily upon the fruit of their labor!

It is true, many contrive by one device or another to evade the law as it now is. But the law pronounces their acts fraudulent. The powerful feelings of the father plead with trumpet tongues in behalf of his family, while the law upon the other hand pronounces the avails of his labor to be the property of another. To save his family, concealment or evasion suggests itself to his mind, and this is associated with crime, and crime carries with it degradation. As nature is more eloquent than law he frequently yields. At first his spirit breaks at the loss of his self-respect, but finally he learns to despise the law that forces him to evade its rigors and then reproaches him with dishonesty.

This is the process by which fraudulent debtors are manufactured, by which respect for the law is lost and the public morals contaminated.

Now suppose the law had secured to the man a home and forty acres of land. Would he sacrifice his character by concealment of his property and other practices of dishonesty? Men have motives for criminal as well as virtuous actions. Thousands of those who are denounced as scoundrels and knaves would be found, could you read their hearts and witness all their souls' agony, to have been brought to their condition by dire necessity. His land would enable him

to apply his labor profitably and to raise the means to pay his debts. But strip him of all and how can he hope?

It is hope, bright, sunny hope, that revives the fallen spirit and raises and sustains the man in misfortune. It is hope and reason that distinguish human nature. It is hope that lights the pathway of time and opens a vista to immortality. Deprive man of hope, and his reason only renders him the more capable and inclined for mischief. God gave hope to man to elevate and inspire him with sentiments of virtue and promise of reward. We would not destroy God's work by destroying this, his chief source of happiness, nor degrade our brother by removing the strongest incentive to honorable and useful action.

The government has the right to call upon every one of its citizens to take up arms to defend its soil and prosecute its wars, and this is right. But if this is right on the part of the government, has the government no reciprocal duties to the citizens? Most surely the government should secure to the family a portion of the soil which the husband is periling his life to defend.

Let us anticipate its effects upon our state, our social and political condition. All old countries have felt the evil consequences of extensive manors or land proprietors. England is now being shaken to her center by the uprising masses against the lords of the soil. New York has had her fields dyed in human blood in the contentions of her industrial citizens with a landed oligarchy. Massachusetts is alarmed because her records show that the fee of her soil is rapidly concentrating in the hands of a very few of the wealthy and powerful. It is the division of the land that equalizes the rights of the citizens. Small freeholds are the fountains of patriotism and the bulwarks of a nation, while a landed aristocracy and a numerous tenantry become its cankerworm. Let the country secure the citizen a home that he can feel is his own, and he fights to the last gasp for that country because that country contains his home.

This provision will divide our soil into small farms and thus secure a numerous agricultural population. Then farms will be highly cultivated because being small in extent profit is found only in skilful tilling. Our prairies will be dotted with farmhouses, and our forests blossom as the rose. Numerous cattle will feed upon our thousand hills, and our own beautiful Wisconsin become the garden and granary of the Union. Our homes will be happy, because the means are possessed of rising from misfortune; our debts paid, because our industry is not denied the means of application; our children educated, because parents will have the ability; our govern-

ment free, happy, and strong, because our population are intelligent, contented, and attached to their homes. In short, this article makes our women rational human beings, and our citizens men, in the image of their Maker. With such fathers and mothers, what state must not be prosperous in her sons?

A great portion of our lands is yet owned by the government. Their price is moderate and the returns of the land offices show that most of them are being entered in forty-acre tracts. The picture drawn is no idle picture. Adopt this constitution and the prospect will open upon its reality at once, and each succeeding year will verify the predictions. These purchasers of forty-acre tracts are among our best cultivators. They are honest men and pay their debts. It is calumny to declare that adequate protection will make them knaves.

Adopt this constitution and the gentleman thinks it will have a tendency to exclude men of capital and enterprise and invite only those who wish to take all advantage of our exemption article. But how is the fact? It is fair to judge from late purchasers of our lands what will be their character in future. From whence do they come? And who are they? From the bleak and barren hills of New England pours forth annually a living tide of men and women with free hearts and strong hands. From every old state in the Union they come; the free but degraded laborers of the South come to find a home where industry is not chained. From the thickly populated states of the Atlantic come the young and vigorous, bounding to our shores with hope and confidence. From the hills of Germany come thousands upon thousands of honest hearts and stout hands, bearing treasures of intelligence, industry, and gold from their fatherland to enrich this state of their adoption. From sorrowing Erin come throngs of Freedom's pilgrims, whose spirits no oppression could crush, and whose energies no calamity could subdue. From Norway's snowy hills and icy plains rush on and on succeeding hosts, with hearts alive to Liberty's sweet inspirations, asking no other privilege than the common equal rights and privileges of men among men. These are our citizens by whose energy and skill Wisconsin is being transformed magic-like from a wilderness to a garden. These are the men whose patriotism is the deep foundation of the state's safety. These are the women who are to bear to Wisconsin her sons and daughters to enjoy and transmit the liberty and equal rights which the friends of the constitution are laboring to secure and establish. And these are the men who buy the forty-acre tracts, and who are denounced as knaves and swindlers. These are the



women who are to seek paramours and rush to prostitution because our constitution secures them in the enjoyment of their rights. Tell me, sons of Erin, is this the character of the daughters which Irish mothers have sent to America? Tell me, sons of Germany, is this the kind of daughters which the matrons of your native land have sent among us to represent the character of your country-women? Is this so? Or is the honorable gentleman of Racine mistaken in his estimate? If he is right, most strangely have you degenerated since a portion of you emigrated to England and, mingling with the active Britons, gave rise to the Anglo Saxon race, which is revolutionizing and regenerating the nations of the earth.

The arguments used by the gentleman are the same in kind that were employed against the propriety of permitting the corpse of the debtor to be buried. It would injure business. As though dead men's bones were not too sacred for merchandise! The same arguments [were employed] against the law abolishing imprisonment for debt. It would corrupt the public morals and encourage rogues and swindlers. It would open the door to fraud. As though the public morals were to be preserved by the sacrifice of human victims!

The business of any country is always in proportion to the development of its resources. These are brought out by labor. Capital always seeks its most profitable investment. Where it can profitably employ and facilitate industry there it goes. There it is useful, and nowhere else. When it keeps pace with labor so that each is employed to its greatest extent, both have performed their highest functions. Capital will come to Wisconsin just as fast as Wisconsin can use it advantageously. It is so with commerce. It goes where commercial commodities are to be procured. We go to China for her tea, to Java for her coffee, and we never inquire whether they elect their judges or exempt forty acres of land or whether their roosters speak the opinions of their public men. So it is here. We have wheat and corn to sell; other countries want it, and they will come here to buy it; whatever currency we demand for it, that they will provide to pay for it. When United States Bank paper passed in China we bought tea with that. When that bank blew up we bought with specie or our own products in exchange. Every tyro knows that currency does not regulate trade, but that trade on the contrary regulates currency. But "it will injure our credit in New York." As though New York was not as much dependent upon us for consumers as we are upon them for articles of consumption. New York must have our wheat, and if she does not choose to sell us her goods, why just let her fork over the

gold, and our farmers will not grumble. We are now paying her six cents for every dollar of her paper money we use, and yet we tie up our arms and open our veins for New York to suck our blood.

Wisconsin can buy no more of New York or anybody else than she can earn and raise means to pay for. To the extent of our means she will trust and trade with us; any farther than that we do not desire her credit.

All this hue and cry about our credit in New York being injured by this constitution is perfect humbug. It is either put forth through ignorance or for the purpose of deception. Talk of New York and Boston reading us out of the commercial list, when they are constantly quarreling among themselves which shall get our custom! When they are sending out hosts of agents to solicit and secure in advance our custom, each vying with the other in the liberality of their offers, talk of New York or Boston shutting us out of the market! Talk of shutting out 300,000 people who are to be clothed from the market of Lowell or Merrimac! No intelligent New York or Boston merchant ever thinks or cares whether forty acres of land are exempt from execution in Wisconsin.

But he takes the statistical tables. He sees how much we produce more than we consume; how much wheat, corn, and other products we can send to market. Then he knows how much Wisconsin can pay for and what profit he can make out of us. We can get neither their goods nor their specie unless we can raise wherewith to pay for them. To this extent can commerce and credit go. Whenever we go beyond, both New York and ourselves will find it out, and all the laws and constitutions in the universe will not help our credit till we have raised means to pay up. Talk of creating credit by law. Any business man who knows his business will laugh at you, unless he wants you to vote his ticket.

Whenever produce dealers and others tell you that there is not money enough to buy the wheat of Wisconsin you had better store up your wheat, for be assured it will take a fall for a few days.

High-minded, honorable, and upright merchants scorn such idle, miserable, sophistical trash. None but embryo statesmen, twilight politicians, and catchpenny traders think it smart. Their actions and arguments are aptly described in the following lines:

Midas, 'tis said, possessed the power of old,  
Of turning whatso'er he touched to gold,  
This modern statesmen can reverse with ease,  
Touch them with gold, they turn to what you please.

What is the source of credit? Mr. Strong asks "Does not the farmer when he sows his wheat trust his farm a year? When he

raises a horse or an ox, does he not trust him three or four years?" We answer yes. But why does he give this credit? Surely not because, if the calf or colt dies, he can levy execution upon the carcass and sell it for a horse or an ox. Not because, if drought blasts the fruit of his farm, he can commit his farm to jail upon execution.

But what is the foundation and source of credit? The meaning of the word answers the question. It is faith, confidence, belief in the integrity and fidelity of the person to whom it is given. It is the same in business as in every other relation. A man never confides in his wife because if she proves unfaithful he can commit her to prison. No more does a creditor ever trust his debtor because he believes he will be compelled to collect his debt on execution. It is his faith in the integrity and business capacity of the man that commands credit. A credit founded upon any other basis is not worth a straw.

I may be permitted to notice here an objection to the article on the rights of married women, which I should have noticed before. The objection is that it will create a separate interest between the husband and the wife. To understand whether this be true it is necessary to know the source of their union. If the source of harmony between husband and wife be in property, then I admit that a distinction of property would disturb that harmony, but not otherwise. There must always exist a necessary relation and dependence between cause and effect. He who argues of cause and effect without perceiving their relation is very likely to confound common sense with the crowing of roosters.

Is property the source of harmony between the husband and wife? This harmony existed before any distinction of property was known. It has its origin in the very organization of our natures. God made human beings male and female, the one mutually dependent upon the other, the union of the two essential to the happiness of both. This union can no more be frustrated than our organization can be changed. Human law can no more destroy or prevent the mutual affection of the sexes than it can repeal a law of God. Its source is the same as the law of gravity, as unmovable and unchanging. The man cleaves to his wife, the woman clings to her husband, God has pronounced them one flesh, and no artificial regulations of property can put them asunder. It is the decree of the Eternal God that unites them, and the effect must be as enduring as God is unchangeable. The cause of maternal love is the same. God implanted it in the organization of her nature, and man can no more legislate it away than he can legislate lightning into a bean pole.



Here we find the cause of conjugal and maternal love. When that cause can be removed its effect will cease and not till then. How idle then are the vain predictions of silly declaimers, who prate about dividing man and wife without ever thinking of the cause of their union. How void of all logical consistency! How destitute of every vestige of correct reasoning! Man must reverse the decrees of the Almighty to make their assertion good; and yet they ask to be believed.

Mr. Strong's objection to the organization of the legislature is that it is too numerous. How does it compare with other states? Massachusetts, Vermont, and, I believe, all of the New England states send a representative from every town. The house of representatives in New York is over one hundred, Ohio seventy-two, and other states, it is believed, proportionably large. All experience has shown that large bodies are less liable to be operated upon by improper motives than small ones. When there are a few men to approach the object is more easily accomplished and with less hazard of detection than when there are many. The difference in expense is compensated for by reduced compensation and shorter sessions. The people are more generally represented, the representative rendered more directly responsible to his constituents. Local interests are better cared for. The voice of the people is more clearly expressed. Let it be borne in mind that in our struggle with the United States Bank the Senate fell while the House of Representatives stood firm.

The next and last objection of Mr. Strong is the elective judiciary. It may be deemed a work of supererogation to discuss this article. It has become a fixed idea with the people of Wisconsin. Nothing will induce them to relinquish this right. They have seen one judge appointed over us, giving barroom opinions to prejudice the constitution, that he may enjoy his place and salary a little longer. They have seen that opinion retailed in the council chamber for like purposes, though it was so silly that even the retailer was ashamed to indorse it. And they perceive that though judges elected may partake of the infirmities of human nature judges appointed are not free from improper and personal motives.

We will briefly notice the several modes of appointing judges and submit the question to the people and have no fears for the result. These are three: First, appointment by the governor, with the confirmation of the senate; second, election by the legislature; third, election by the people.

These are the only modes suggested. The vitality of popular government consists in rendering officers responsible to the people by placing the tenure of their office upon popular suffrage. A representative democracy secures its efficacy by holding its representatives accountable to the people through the ballot box. Accountability is secured by frequent elections and short terms. If the public officer is approved, the people may reëlect him. If he prove incompetent, corrupt, or otherwise unfit, his place is supplied by another. This is the only democratic doctrine, and every departure from the principle is aristocratic in its character and tendency and ought not to be permitted without the most cogent reasons.

To the first mode of appointment there are many and overwhelming objections. Appointments by the governor are made of particular favorites, to reward personal service or accommodate personal friends. We all know how this works. A few wireworkers in different parts of the state begin the game by correspondence. It is agreed that Mr. C. shall be judge, Mr. S. United States senator, Mr. H. attorney-general, etc. Then the governor is beset by those whom he considers men of influence, the appointment is made, the decree of the clique is carried out, and the voice of the people is entirely suppressed as though the people were gagged. Now the appointment of judge is a perfect piece of bargain and sale from beginning to end. However odious the appointee may be to the people he is fastened upon them without their consent, and fastened for life or till he can make a better bargain.

To the election of judges by the legislature the same objections apply with greater force, because the bargain and intrigue are more open and notorious and hence more corrupting and disgusting. Both in the appointment of judges by the governor and in their election by the legislature party trammels are drawn to their utmost tension. The system of logrolling begins with the session, is frequently advanced to bribery, and the farce closes by the election of a judge who has purchased his office at the expense of his integrity.

A few members in the west have a particular candidate for state printer. Another few in the north have a candidate for attorney-general. Others in the east have their favorite candidates. Then begins the game

Tickle me, Neddy, do, do, do,  
And in my turn, I'll tickle you.

“You go for my man, and I'll go for yours” is the prevailing proposition, and then officers are thus bought and sold with shame-

less impunity, while the wishes of the people or the qualifications of the candidate are never taken into consideration. This is the mode of operation of the two first plans.

Is the third liable to the same objections? I contend that it is not. Mr. Strong insists that the people do not know enough to elect a judge. The same objection applies with equal and more force to an elective governor. Very few of the people can be personally acquainted with the candidate; he is elected by the people of the whole state, while a judge is only elected by one-fifth.

I am willing to submit the question to the people whether they are as competent to elect a judge for themselves, as a Milwaukee or Racine clique is to appoint one over them. And upon this issue I rest this branch of the objection.

But it is contended that judges will be elected solely upon party considerations. Let us submit this to the test of logical argument. In a democratic government the public will legally expressed is the law. As men differ in opinion as to the measures calculated to promote the public good, they divide into parties; opposite measures are advocated, and each party submits its measures to the public judgment in the persons they respectively nominate to carry out the measures advocated by each. As the majority determine, the questions are settled as to measures. The measures divide the people, not the men.

But in the election of judges the question is not one of measures, but essentially one of men. The object is to obtain an honest and due administration of the law and to select the man best qualified for that object. Hence the cause of party division is removed, and the effect must cease. No other officers being elected at the same time, there can be no logrolling among a multitude of candidates.

The short term of office is no objection. The reason is short and conclusive. If the judge elected proves worthy of his trust, the people can reelect him. If he proves unworthy, they certainly ought to have the means of getting rid of him. It is comfortable for a judge with a good salary to hold for life, but it is a comfort to no one but him.

It is contended that the judge seeking popularity will be swerved from integrity to court popular favor. This is another fling at the honesty of the people, for it presupposes that the practice of dishonesty and corruption is the direct road to their favor. The most effectual and certain mode for the judge to be popular will be to discharge his duty with fidelity. The people love the laws of their own creation and desire to see them administered in purity.



That judge therefore who faithfully administers the people's laws will find favor in the hearts of the people.

Mr. Strong tells us that a new convention will certainly give us a better constitution than the present one; and his reason is "that it will have a clear indication of public opinion." How so? Upon what point? One votes against the constitution on account of boundary but is in favor of exemption. One is opposed to exemption but in favor of banks. One opposes the married woman article but is a zealous advocate of the elective judiciary. And thus opinions are as various as you can combine the several articles of the constitution. The consequence will be, if the constitution is rejected, that the next convention will quarrel from January till December as to what each is instructed to do in relation to these various provisions. One will say the constitution was rejected because it contained the exemption article; another will attribute it to the elective judiciary; a member from the east will declare to a member from the west that the bank article is condemned by the people; the western member will reply that the bank article is not condemned, but the elective judiciary, and so on to the end of the chapter and the bottom of the people's pockets. Contention will rise upon contention, strife upon strife, till it will be impossible to agree upon anything.

Or if by chance or in despair a convention does agree upon a constitution, when it is again submitted to the people some will vote against it because the bank article is stricken out. Some because the exemption article is retained. Some because the governor or legislature is to appoint the judges. Some because the boundaries are changed. Some because the exemption article is stricken out, or the married woman article is retained. And how amidst all this confusion and variety of opinion will it be possible to harmonize the minds of a majority of the people upon another constitution? In the course of the canvass upon this every voter will have his feelings strongly enlisted in favor of his favorite provisions or against obnoxious ones. If a new constitution shall be presented, wanting the one or containing the other, it is rejected. Besides, a continued submission of exciting questions of this kind tends to excite and distract communities, to introduce discord among neighborhoods, and put off farther and farther the day of compromise and conciliation that must come before we can enter the Union.

Is it not then better that we try to compromise now? Is it not better to adopt this constitution, democratic in every respect, than to begin the process of voting down which will end no one knows

where or when? We have incurred a heavy expense to get this one. If we reject it, another bill of \$40,000 is added to this one, and so on from year to year, till a large public debt has accumulated, loading us down with taxation.

I have now attempted to answer the prominent objections to this constitution, urged by Mr. Strong. There are others mentioned by him, but too frivolous for serious comment. Nor shall the effort be made to review his answers to the pretended arguments of the friends of the constitution. Anyone may set up a man of straw and exhibit his skill and valor in beating him down. The gentleman has supposed many arguments for the friends of the constitution which suit himself and has no doubt derived much amusement in trying to demolish them. It would be hard to deprive him of this remaining crumb of comfort. When Othello had discovered the infamous treachery of Iago, he merely said, "If thou be'st a Devil, I will not kill thee."

If this constitution be not adopted, our admission into the Union must be delayed at least two years. We shall be entitled on admission to 500,000 acres of land. In two years more the most valuable of the public land will be sold, leaving only the poorest quality. We lose our distributive share of the proceeds of the sales of the public lands. We continue the old form of territorial government with all its vices, plunging the territory into debt from year to year. It is true the gentleman will be enabled to retain his seat in the Council another year. The old territorial officers will be enabled to hold on to the spoils two years more. But this is a poor equivalent for the right of the people to govern themselves.

On bringing this subject to a close it may be proper for the writer to say a word in explanation of the reasons which induced him to attempt this reply. It was the effort of Mr. Strong during the entire session of the legislature to procure from that body some expression denunciatory of the constitution. Everything might be sacrificed to that grand object. It was with him the throw of a die, and he foolishly staked his all upon it. He forgot even his hostility to Milwaukee in his ardent zeal for his favorite project. Failing in his attempt to wheedle or drive the legislature into his mad schemes, he takes the field alone and makes his three-hour speech, prints thousands of copies, procures its publication in the Whig papers, circulates them in vast numbers and variety of form all over the territory, vainly supposing that his own personal influence could ride down the public judgment and that the people would admit themselves fools because he had thus pronounced them.

Under these circumstances the friends of the constitution deemed a reply fit and proper and urged the writer to undertake the task. In the discharge of this duty he has endeavored to vindicate the rights and interests of the laboring classes from the unjust aspersions and cruel implications contained in the gentleman's speech. He has endeavored to rescue the constitution which secures equal rights and privileges to all—to the poor and to the rich, the native-born and the resident foreigner—from the grasp of sharpers and monopolists and the slanders of their advocates.

What is here written has been written in great haste and at intervals snatched from other and pressing engagements. Imperfect as it is, it is committed to the public in the hope that it may aid in accomplishing the great design which the true friends of the people and future state of Wisconsin have in view.

In closing it may be proper to remind the people that the present is for them a fearful struggle. The cup of liberty, equal rights, and constitutional protection is presented to them. Every effort is used to induce them to dash it away and still cling to the beggarly remains of feudal oppression. Every species of misrepresentation is resorted to in order to prevent a calm consideration of the instrument itself. Frightful predictions are uttered by mouthing politicians to induce the people to forget that the fertility of the soil and the products of labor are the elements of prosperity and that just and equal laws are the foundation of happiness.

But, fellow citizens, be not deceived; your rights are now placed in your own hands. Let not your grasp loosen for a moment, that your enemies may snatch them away. Be not inactive. The foe is aroused to his most desperate energies. He is putting forth all his strength and subtlety. The power of self-government is now with you. Let it not depart, lest it depart forever. Come up to the contest with the shout and strength of freemen who know their rights and dare maintain them. Adopt the constitution and make Wisconsin what Nature designed her, the Queen of the West, and what your votes will thus render her, "the land of the free and the home of the brave."

#### HOMESTEAD EXEMPTION

[March 3, 1847]

Many of the opponents of the constitution make this the ground of their opposition. They contend that it is fraught with more mischief than was contained in Pandora's box. They say it is a "new"



measure and of course a dangerous one. They reason on the positions taken by a learned English bishop of bygone times "that an old error is worth two new truths." But is this principle so very new, as these sticklers for antiquity contend? As they have great veneration for "authorities," let us give them some names in support of these measures, which have generally been supposed to carry some weight.

Says Jefferson: "I set out on this ground, which I suppose to be self-evident, that the earth belongs in usufruct to the living."

Blackstone affirms: "There is no foundation in nature, in natural law, why a set of words on parchment should convey the dominion of land." This is good common sense.

Paley declares: "No one is able to produce a charter from heaven, or has any better title to a particular possession than his neighbor."

The affirmation of Gray is equally in point: "The earth is the habitation, the natural inheritance of all mankind, of ages present and to come; a habitation belonging to no man in particular, but to every man; and one in which all have an equal right to dwell."

To the same effect are the words of M. Jacques: "What are the rights to which men are entitled by the laws of nature, or the gifts of the Creator? The Declaration of Independence has already named some of them; that is, life, liberty, and the pursuit of happiness; to which I will add an equal right to the earth, and other elements, all equally indispensable to the existence of man."

Said Mr. Channing: "The remedy I propose for the increasing pauperism of the United States is the location of the poor on the lands of the far West, which would not only afford permanent relief to our unhappy brethren, but would restore that self-respect and honorable principle inseparable to citizenship."

President Jackson proposed the same thing in his annual message, 1831: "To afford every American citizen of enterprise the opportunity of securing an independent freehold, it seems to me best to abandon the idea of raising a future revenue out of the public lands."

Said Black Hawk, when asked to sell out his country: "My reason teaches me that land cannot be sold. The Great Spirit gave it to his children to live upon, and cultivate, so far as is necessary for their subsistence; and so long as they occupy and cultivate it, they have the right to the soil. But if they voluntarily leave it, then any other people have a right to settle upon it. Nothing can be sold but such things as can be carried away."

The Great Spirit gave the earth to man—to the race—not to the favored few; and a portion of it is the birthright of every man. If

so, then for the government in its legislation to deprive any part of their just inheritance is downright usurpation.

Says Burlamaqui: "They are all inhabitants of the same globe, placed in a kind of vicinity to each other; have all one common nature, the same faculties, same inclinations, wants, and desires. Man finds himself naturally attached to the earth, from whose bosom he draws whatever is necessary for the preservation and conveniences of life."

We repeat that a man has a right to live and to be upon the earth; he has a right to breathe the air, to a free use of light and water; he has equally a right to share of the products of the earth, and hence he has a right to a portion of this earth on which to rear those products. These are natural rights. But without entering into a discussion of these, let us meet the objections of the opponents of this measure. The first and foremost in the catalogue is, "It will keep out capital." But how, no man has told us and no man can tell. We sincerely believe the reverse of this will prove true; for whatever tends to secure to labor its full reward must tend to the increase of capital among the masses. What is capital but an accumulation of the products of labor? Capital is created by labor; and without labor money itself is of no account—it is as valueless as pearls upon the desert, which can furnish the lost traveler neither bread nor water.

But how is it to keep out capital? Why, it will destroy confidence. But how? Is confidence between man and man founded in the right of the one to turn the other into the street, with a dependent family? Is this the basis of confidence and credit? We think not. The Indians of our forests are trusted by the trader on a different principle, and the Arab of the desert is trusted by merchants of the caravans, and the instance of a failure of one to redeem his promise cannot be found. It is our opinion that the knowledge that our fundamental law secures a man in the possession of his homestead, and that, whatever may be the vicissitudes of fortune, there is no law that can turn his family into the street and make him a vagabond will be one of the greatest inducements to emigration.

The principle of exemption has obtained in every state of the Union. The only question now is, Are we going a step too far? The community requires of an individual that he shall be able to support and educate his family. If he cannot do it under existing laws he will violate those laws by covering up his property. Have not the community a right to say to the creditor, "If you trust a man you do it on that portion of his property which is not necessary for the support of



his family? If you trust him beyond that it is at your own risk; we will not allow you to reduce the family to beggary." Laws for the collection of debts without exemption are nothing but licensing intriguing individuals to reduce the balance of community to starvation or slavery. They are laws to make men dishonest. No system ever devised by man can be imagined more demoralizing in its influences than that which strips a man of his all and turns him and his family out as vagabonds. Such laws men will resist, say what you will, and do what you will. We envy not the man who can enforce such laws or see them enforced without emotion, though done according to law and in the most approved style of legal proceeding

#### ARGUMENTS OF W. K. WILSON

[March 17, 1847]

Down to the earth oppression shall be hurled.  
Her name, her nature, banished from the world.

—*Campbell*

As the portentous time is at hand when the people of Wisconsin shall be called on to vote for or against the proposed constitution, it becomes the paramount duty of every honest man of whatever party previous to the giving of that vote to scan carefully the leading principles involved in that instrument, fraught as they are with so much importance to the future well-being of the present generation and thousands on thousands yet unborn; and on examination to lay his hand on his heart and say, "I am resolved before heaven and my fellow men to do my duty in this matter as a patriot and a man, untrammelled by the dictates of narrow-minded, selfish, and interested party leaders, and cast my vote for the ratification of an instrument, the most just, liberal, and humane ever presented for the adoption of any people under the blue canopy of heaven."

The grand and leading features of the constitution which I contend for are the following: First, the exemption of the homestead, a farm, or village lot from forced sale for debt; second, the total suppression of that abominable and nefarious system of fraud and gambling trick, called paper money; third, the liberal and enlightened support which it gives for encouragement of public education; the effectual barriers which it places in the way of creating those monstrous evils, state debts; the wise and human protection which it gives to the property of married women; and last, though not least, which I shall mention, is the electing of judges by the direct vote of the people—the only and true source of legitimate power.



It would be intruding too much on the space of your journal to state my opinions on each of the above propositions. I beg to make a remark or two, however, on the first mentioned, viz., the exemption of the homestead from forced sale, etc. This, in my humble opinion, is of the first importance for the consideration and approbation of every workingman. What next to the family on earth can be more endearing to the heart than home? The pleasing associations connected with that sacred spot cannot be adequately portrayed. Yet when the rude blast of adversity attacks the guardian of that hallowed spot the heretofore happy family is expelled from under the roof by the ruthless hands of some puny officer strutting about in all the majesty of his "little brief authority," and the loving family thrust out without shelter, for aught he cares, to endure perhaps, all the peltings of the pitiless storm. Had the generous sons and daughters of Ireland the protection of the law on this all important point, we should not hear of the wailings of distress which are at this time brought to us on every breeze from that lovely isle—which to its size may be called the garden of Europe. Yet with all its proverbial fertility, its inhabitants are going to the grave for the want of the common necessaries of life. The soil is robbed from her children and is monopolized into the hands of a callous-hearted oligarchy. The homestead and its effects are victimized to appease the voracious maw of some wretch, a disgrace to humanity, having the law with the bayonets at his back, to enforce immediate payment for something in the shape of rents, taxes, and tithes. In our own country I see some people ascribing all this lamentable state of things to the "mysterious workings of Providence." Such an idea is as unjust as it is impious. If the soil belonged, as it should, to the inhabitants of that country, had each family its equal share of the soil, were the homestead exempted from the merciless fangs of the law, there would be more than enough to supply all the wants of every individual in the island. In proof of this I have seen with my own eyes whole shiploads of flour, oatmeal, oats, cattle, and pigs landed at ports of Liverpool, Glasgow, etc., some few years ago; at the same time the Irish press contained the most awful accounts of appalling distress in that country, particularly in the western part, where the inhabitants had to subsist on seaweed or any other substance which the ocean wave might cast on the famishing shore. The cause of all this can be easily assigned. It is as palpable as the sun at noonday. The parent curse is the monopoly of the soil into the tiger paw of the few which God gave to all. Its legitimate offspring is paper money—and the curse which it entails on society, namely,

poverty, ignorance, destitution, and crime. Oppression of every grade and shape, with a worse than useless State Church, and to crown all, the right bare-faced villainy of robbing the people of the inestimable right of suffrage, that potent foe to tyranny and oppressors of all countries, but when properly used the genuine friend of man.

These few remarks are facts of history, which I dare say none will be found to deny. Let, therefore, every man in this part of the world guard against those crying evils under which our unhappy brethren at this moment are suffering in their native land. Let him do it as he esteems above all price the glorious liberty bequeathed to us by the patriots of the Revolution. Let every Republican, by whatever party name he may be called—every good and honest Democrat who desires to see these principles carried out contended for by the immortal Jefferson and Jackson, although opposed on every hand by a host of idle consumers in the shape of bankers, speculators, Hunkers, land monopolists, etc.,—let him avert the evils by coming out boldly and fearlessly on the first Tuesday of April next and giving the constitution, which secures equal rights to all and gives the deathblow to the privileged few, his warmest, true, undivided support, and secure to every man, woman, and child within the boundaries of our beloved Wisconsin all those just and inalienable rights which humanity has claim to.

To my fellow working men I beg leave to say a word or two. You are the bone and sinew of the country—the producers of its wealth—of more intrinsic value than bank rags. You and I have a stake in the country, and that an important one. Some of the details of the constitution you may object to. In a document of that nature it is almost impossible to have the universal concurrence of all, but each one of us must give up a little of our own peculiar notions, so as to form something like a harmonious whole, to secure to us and posterity the blessings of self-government with a written constitution. If we reject it, another may be framed at some subsequent period, not so agreeable to us as the one now under discussion. Forty or fifty thousand dollars of additional expense will be incurred, which the industrious classes will have to pay. A disagreeable excitement will be carried on, and God only knows when it shall end. The flame will be fanned by all these idle vampires who fatten upon the lifeblood of society—by the juggling trick of paper money, usury, and chartered corporations. They will spare no expense. Come then, brethren, do your duty to your country, as parents and men; and although your names may not be emblazoned on the page of history as the il-

lustrious names of the saviors of their country are, yet in after years you may look back with honest exultation on your action at this important crisis, when time shall have proved the soundness of true Democratic principles which we advocate, and say I gave my support to this our glorious constitution on the sixth day of April, 1847—I did so in spite of party hacks and selfish leaders, by an approving conscience, increasing the peace and happiness of our common country, and receiving the heartfelt approbation of every honest man.

I am, etc, etc.,

W. K. WILSON

MILWAUKEE, March 11, 1847

### STRONG'S ROOSTERS

Tune—*Yankee Doodle*

[March 24, 1847]

They say the roosters once did crow,  
That women ruled the world, sir;  
That stars and stripes were all cut down,  
And petticoats unfurled, sir!

It must have been a sorry time,  
The women were all Strong, sir;  
But such an awful time as this  
Could not continue long, sir!

A lot of Badgers went to work,  
A lot of Yankee boys, sir!  
To catch these doleful crowing cocks,  
And change their frightful noise, sir!  
They met at Madison in state,  
And soon they passed this law, sir!  
"Crow, hence, that labor shall rule here,  
Or else you hold your jaw, sir!"

And now on every side we hear,  
The roosters crowing loud, sir!  
That never in our future state,  
Shall bank rags rule the crowd, sir!  
That woman shall be safe from fraud,  
But not the breeches wear, sir!  
And while her husband treats her well,  
They twain shall be one pair, sir!



They crow that labor and the man  
 Shall have all honor here, sir!  
 That charters and monopolies  
 Shall never once appear, sir!  
 And now through all the Badger State,  
 We think there are but few, sir!  
 Whose hearts are not rejoiced to hear  
 Their cock—a—doodle—doo, sir!

ADDRESS TO THE PEOPLE OF WISCONSIN <sup>24</sup>

[March 31, 1847]

FELLOW CITIZENS: The fact whether the time has come when it is proper to enter the Union is no longer a question. That was settled by the vote of our people at the spring election a year ago. The only question now is as to the form of government we should adopt in becoming a member of the national family. And this question in its most interesting features presents itself thus: Shall we have a government which creates no more offices and officers than are necessary for the public welfare and safety—and those shorn of all dangerous patronage and power of combination, and paid only so much as will be a proper reward for the discharge of honest duty and service to the public? Or shall we have a government which establishes numerous and unnecessary offices and officers, not for the people, but the office holders—concentrates them at the seat of government, places in their hands the machinery and means to perpetuate their official existence with salaries not merely sufficient to compensate for labor and duty, but sufficient to bribe the corrupt to dishonorable ambition and struggle for those offices? If it can be demonstrated that this is the real question now before our people, I have no doubt that they will choose the former government. And if it can be shown that the constitution now submitted for our approval or condemnation secures the former and destroys the latter, I have equally no fears that they will reject it. I proceed, therefore, to the demonstration of these propositions. But before doing so, let us take a view of the time when our convention sat and of the circumstances which surrounded it.

It cannot be denied that the time was propitious. The past experience of the other states—their vicissitudes, their embarrass-

<sup>24</sup> Issac P. Walker, the author of this address, was a native of Virginia who spent the early part of his life in Illinois and removed thence to Wisconsin in 1841. He served in the territorial legislature and from 1848 to 1855 as United States Senator for Wisconsin. He died at Milwaukee in March, 1872.

ments, their trials, their struggles, and their triumphs—could be viewed as a picture or read as the page of warning history. Hence the convention was able to discover the blessings which our sister states had secured by their forms of government, and also the evils which existed in those forms of government, and from which disaster had resulted to the people.

The circumstances surrounding the convention were equally propitious. If at the time of the convention we had just passed through one of those periodical financial revolutions in which the banks of the country from their rapacity, corruption, and insolvency had broken down or blown up, carrying with them the hopes, prosperity, and happiness of the country, the action of the convention on the subject of banks might have been attributed to momentary passion or rage. Had the stupendous projects of internal improvements in the states but just failed, had the elements borne to the ears of the convention the groans and shrieks of a people writhing under the unassuageable pangs of state debt, with all the intolerable horrors of burdensome and oppressive taxation, we might have equally attributed to the convention a too hasty and impulsive passion in their action upon the subject of state debt and internal improvement. Had an inflated condition of the currency existed, and, consequently, a disposition on the part of the people to overspeculate and plunge, as in 1836, into ruinous debts and a state of bankruptcy, then the convention might have been subject to the charge of having acted from fear and anxious apprehension in their action in relation to exemption. But happily for us no such state of case existed. The financial affairs of the country and the people were easy—neither elevated nor depressed. The horrors of state debt and ruined systems of internal improvement could be viewed at a distance as objects of calm contemplation and prudent thought. Under a benign Providence our fields had yielded a rich and plentiful harvest; labor and the mechanic arts with all the industrial pursuits of life found employment with ample reward for exertion. And our people were paying rather than contracting debts.

Sitting as our convention did at a time and under circumstances so happy and well adapted to the end in view, what else could we have promised ourselves than that its deliberations would be guided by calm, dispassionate reflection, by that sagacity which is matured by a calm contemplation and examination of the past, and that reason which teaches by the events and vicissitudes of the past how to guard, protect, and provide for the future?

Has the convention met and fulfilled our expectations? For one, I contend that it has. And I so contend, despite the volley of falsehood which has been sent forth against the convention and the constitution from the artillery of an office-seeking regency. But for the reasons for so contending, and herein of the demonstration above promised.

In casting the mind abroad through the states of the Union, what great, prominent, and ever agitating evil do we hear complained of in each of them? Is it pecuniary embarrassment? No. That may at times operate; but the energy and industry of the American people will triumph over that. But under any constitution heretofore adopted in the states an evil does exist over which they will not triumph, over which they cannot triumph, so long as their forms of government and laws stand as they are. It is an evil, the results of which are rarely attributed to the true cause—frequently the true cause is not suspected. The evil consists in a concentration and combination of the officeholders of the state. Why is this so? Simply because the offices in all the other states are organized and salaried not for the benefit of the people and with a view merely to promote the necessary ends of government, but for the benefit of the officeholder and with a view to make office in any given case but a stepping-stone to other and higher preferment, thus constituting in both the high pay and the means furnished to keep in the line of "safe precedent," when once there, a direct bribe to the corrupt. In some states this officeholding combination is called "regency"—as in New York, the Albany Regency. In others it is called the "junto"—as in Illinois and Indiana. In others it is called the "clique," and in others the "dynasty." And here in young Wisconsin it has received or has assumed the name, now becoming odious in New York, of "Old Hunker." But wherever it exists and under whatsoever name, its results are corruption and bad management in the people's affairs of government—extravagance in public appropriations and expenditures, and a dishonorable struggle for office in which falsehood and chicanery usurp the throne of talent, and virtue retires abashed and blushing from the filthy contest, while a portion of the people through party drill are too often found tacitly applauding the dirty triumph over their own liberty and rights.

But let us take Illinois as an example to illustrate this concentration and combination of office-holding power. Under the constitution and laws of this state there is created a governor, secretary of state, auditor, treasurer, and clerk of the supreme court, all residing at the seat of government. Besides this, twice a year the supreme



court with its nine judges sits at the seat of government, calling together the politicians among the legal profession from all parts of the state. Besides this, these same supreme judges with the governor constitute a council of revision to the legislature and consequently are in attendance at the seat of government during the sittings of the legislature. Then add to all those a clerk of the circuit and district courts of the United States—a register and receiver of a government land office, a government postmaster, and perhaps a United States district attorney and an attorney-general—all residing at the seat of government and receiving immense salaries or perquisites of office—and you certainly have a concentration of officeholders sufficient to control if they will but combine. And in the nature of things they will and do combine. They act upon this principle that, being in office, with fat pay, they will mutually support each other in their positions. At the same time, however, they avow the principle of rotation in office. But with them this means rotating out of one office into another. As an example of the workings of this principle we see that within the last ten years a gentleman of this state has held and run through, successively, the offices of prosecuting attorney, member of the legislature, commissioner of public works, judge of the circuit and supreme courts, secretary of state, representative in Congress, and was this winter elected by the legislature to the United States Senate.

But this combination is not yet fully presented. Not yet sufficiently effective to carry out its designs, the legislature is induced to elect a state printer, who of course is of the same party with the dynasty in official power, and who commanding a power press renders the combination complete and too strong—oh, how much too strong for the people! Do you believe it? If not, hear further of its mode of operations: Let the people send to the legislature their friend—the friend whom they have tried—whom they think cannot be bought, and whom they think is of good morals. He is a man of courage. He discovers fraud, corruption, or peculation in some one of the state departments. He feels it his duty to call for investigation and to that end introduces a resolution. But oh, he repents it but once, and that for the remainder of his life! With that resolution he breathes his last political breath. Night comes, and the regency assemble. Morning comes, and the state paper is down upon him with a hard stroke—the next number and the next the same. By this time the papers on the outposts, but controlled also by the regency, have caught up the strain. His enemies are written to and they join in. All the falsehoods told of him through life are re-

vamped; and ere a month has rolled away he finds himself disgraced, ruined, fallen. His resolution is laid on the table, investigation is suppressed, corruption goes unexposed, and the regency throw up their caps with loud huzzas of triumph!

Do you now believe in its power? If not, hear me again: The regency has been long in office and power. For remember, in the example put, they do not receive their offices at the hands of the people, but from the patronage of the legislature or the governor. A new set of hungry, hound-tongued, office-seeking aspirants are in the field. The state paper fights for the regency for a time most manfully; but the unblushing audacity of the yelping crew of new aspirants is not to be put to the blush—they can not be silenced—they must be conciliated. A parley is sounded—the regency and the new claimants meet in secret, silent conclave. But think you this conference leads to a compromise by which the regency gives up its power? Never! But what is done? It is agreed that new offices shall be created, to be filled by the new dynasty. But how is this to be done? The plan is suggested—it takes. A system of internal improvement must be created. By this plan from three to five fund commissioners can be created, with power to go to New York, London, Amsterdam, and Paris to negotiate state bonds by the million. From five to nine commissioners of public works to disburse the funds, when procured, and a hundred or more engineers can be provided with offices and high pay to exhaust those funds. The state paper blazons forth "Internal Improvements!" And the outpost papers echo back "Internal Improvements!" At length a member or committee of the house is found to introduce a bill, but being unwilling to take the odious responsibility of introducing it in a shape likely to pass the member or committee introduces it providing for the construction of one road only across the state. In this shape it has not strength enough to pass. Another member adds another road. Still it lacks strength. Another is added. It can't pass yet. Another and another are added until it has gained the requisite strength; but now it provides for thirteen hundred and sixty miles of railroad. The bill is printed and sent forth to the people, who with one voice exclaim the system is too large! But think you the regency or dynasty are discouraged? Not they. They have met and conquered the people too often to doubt of triumph now. The engineers are summoned to the capitol to report upon the cost of the system. They, being interested, report that the system may be completed with some four millions of dollars. The people are disposed to cry out—"This is more than we will



bear." But stop: This amount you will not have to pay; the money can be borrowed at six per cent interest for sixteen years. The roads can be completed in five years and when completed they will yield an average profit of twelve or fifteen per cent, thus not only paying the interest upon the loan but creating a sinking fund for the liquidation of the principal when due. In this corrupt and fraudulent manner public clamor and objection is silenced. The bill is passed. The fund commissioners are elected by the legislature. The state bonds are executed and placed in the hands of the fund commissioners, who stretch away to Europe to negotiate them. Well, a few millions of money are procured; engineers are employed, the surveys made, and the implements for operation supplied. But just at this time the money gives out. Now more money must be had, or the tools, implements, and materials laid in for the dear people will be a dead loss. Well, another batch of bonds are issued and negotiated; and each road is commenced at the same time; and each road is commenced at each end. But now again the money is out, and unless more can be procured all the work already done will be a most villainous loss to the sovereign people. More is procured, and more, and more, until the state is found to be in debt \$16,250,000 and not one inch of the railroad done. Well, who gets rich out of this operation? The fund commissioners—one of whom is now living in royal splendor in his palace near the city of Louisville, Kentucky. Who else got rich? The state printer and most of the commissioners of public works. Who else? Most of the contractors and some of the engineers. How fared the poor laborers? Oh, that I could be spared this last touch to the foul picture! While the system was in operation the State Bank and the Bank of Illinois were made the fiscal agents of the state. The funds procured by the state were deposited with them, and they paid the laborers in their notes. They soon suspended specie payments. The legislature was convened and forced to legalize the suspension. The bills of the bank went down, down, down upon the hands of the laborers, until they would bring but forty or fifty cents on the dollar; when the holders were forced to make this dreadful sacrifice or beg or starve. Finally the banks blew up. Emigration ceased. The real estate of the state went down to a mere nominal value, and the people were left to writhe in a political Gethsemane, sweating blood at every pore. And this, all this, followed as a terrible result of a concentrated combination of officeholders and office seekers! It was concentrated because by the institutions of the state they, the officers, were huddled together at the seat of government. It was a



combination, for no other means could have succeeded in triumphing over a free and patriotic people. And that there was combination is proved by the results independent of the testimony which might be given by many who were mournful yet awed spectators. It was a combination, too, little less dreadful for its principles than its practices, its main principle being "Rule or Ruin!" And in the instance given it did both. It did rule and it did ruin. Almighty God avert from our own Wisconsin such a calamity!

Will you now, fellow citizens, believe me when I tell you that there may be a power "behind the throne (the people) more powerful than the throne itself," and that, too, even in these republican states, unless by the organic fundamental law it is prevented? Shall we prevent it? Shall we have a government of the people, or shall we have a government of the office-holding and office-seeking power?

Now turn from the foregoing nauseating picture to the contemplation of the simply beautiful form of government proposed by the constitution before us. By it the office of governor is created, the incumbent to be elected by the people. But to him is given no one item of patronage; nor is he required to live at the seat of government. But, as a sentinel upon the watchtower of freedom, his powers are all duties to the people, not to himself or to his office. He holds his office but for two years and receives a salary of but \$1,000, while the governor of Illinois holds four years and receives a salary of \$1,500. Our constitution provides also that the people shall choose a secretary of state (who shall ex officio be the auditor), a treasurer, and an attorney-general, to hold their offices for two years only, and to be paid for their services, yearly, a sum to be prescribed by law; but no extra compensation can be granted or allowed to them "under any pretext or in any form whatever." In Illinois where this restriction did not exist I have known \$1,700 extra compensation to be granted and allowed to a secretary of state at one session of the legislature. And you know or can easily learn that to that same man, when secretary of Wisconsin, extra compensation was granted almost every session. But the beauties of our proposed executive and administrative departments are that but one officer, the secretary of state, is required to live at the seat of government, and that one only from necessity, it being necessary that the public records and state seal should be kept there. That the officers are all chosen, not as in Illinois, by the legislature, or the governor and senate, but by the people, and for short terms. That their salaries are either fixed or limited low, or are to be prescribed by law—fixed before the

service is rendered—without the power or hope of receiving extra compensation.

Under the constitution before us there are to be five judges elected by the people, to hold for five years only, while in most of the other states they hold for life. They are to discharge the duty of judges of both the supreme and the circuit courts. They are required each to hold two terms of the circuit court and, together, at least five terms of the supreme court, annually, for which they are to be paid but \$1,500 a year; while our present judges get \$1,800 a year for holding two terms of the district and one term of the supreme court. But under our constitution not even the supreme court is required to be held at the seat of government, but at home, in the circuits, among the people. But above all, by our constitution every officer, whether executive, administrative, legislative, or judicial, is expressly rendered ineligible during his term of office "to any other office of trust, profit, or honor in the state."

Now, fellow citizens, under such a system of government what opportunity is left for a corrupt office-seeking or office-holding regency, junto, clique, or dynasty either to concentrate or to combine to trample upon the people's rights and interests? By the constitution they are congregated nowhere. If they combine, to what end will it be? Will it be to push each other into higher stations to give room for others? No; they have not only to pass the ordeal of our suffrage, but the constitution declares that each must have served out his term before he can take another station. And I have no fears but that he will be required to have served it faithfully before the people will call upon or elevate him again. Our constitution would present but few charms to such a politician as the Senator from Illinois, to whom I have alluded; and quite as few to another new-made Senator in Michigan, who in about two years past has leaped from the ranks of mere ambition to the bench, from the bench to the gubernatorial chair, and from that into the United States Senate, serving the people in neither capacity any longer than to enable himself to get a better office. And I think also that it presents but few charms to a set of men in our territory of like ambition and aspiration. Cast your eyes abroad among our politicians; when you have found among them the opponents of the constitution, inquire whether they have not been hangers-on at the seat of government. Have they not to your knowledge, if they ever held office, achieved their success not by an open and manly avowal of principle, but in some mysterious manner, unaccountable to you, but generally supposed to be by what is called "wireworking?"



To such men the proposed constitution is a robber. It snatches the wires from their hands and distributes them among and places them in the hands of the people.

Now let us pause for a moment and reflect: If the constitution submitted to us contained no other principles than those we have been discussing—principles fraught with so much republican beauty, simplicity, rectitude, and honor—ought we not to adopt it?

But those we have considered are but a fraction of the provisions contained in the constitution, which should be cherished by every true American, whether native or adopted. Its prohibition of state debts; its prohibition against special charters for banking; the prohibition of lotteries; the low limitation of pay to the members of the legislature; the limitation of the aggregate fees of circuit clerks; and provision for the election of that officer by the people; the liberal guaranty of the right of suffrage and of the elective franchise not to citizens only, but to those of foreign birth who will declare their intentions to become citizens; the provision that every officer, without exception, is made elective by the people; the ineligibility of the officer to any other office during the term for which he was elected; the disqualification of all duellists and defaulters to hold any office of honor, profit, or trust; the provision that the expenses of the state shall be published yearly through the public press and with the laws of the legislature, so that the people may know how their financial and state affairs are managed; the admirable foundation laid and the ample fund provided for a system of common schools—not of colleges and universities for the education of the wealthy and great, but of common schools, in which the youth of the country may be educated—these, together with the utter dispersion of the office-holding power and the entire destruction of all focus or center for its combination—these hallowed provisions and principles place the constitution before us incomparably above and superior to any yet adopted in America! And for us to declare that we will reject it because in some of its details it may not be perfect is like refusing to accept the ingot of gold because with the microscope we can discover in it a grain of sand.

But, fellow citizens, let us examine the objections raised against the constitution: These are mainly to the article on the rights of married women, on exemption from forced sale, and the article on banks and banking.

And first as to the rights of married women: The first provision is that the married woman shall have as her separate property "all property, real and personal, owned by her at the time of her mar-



riage." This cannot affect those who are already married, nor those who may hereafter marry, if the wife owns no property at the time of marriage. But the next provision may, which is, that the wife shall have as her separate property "that acquired by her after marriage by gift, devise, descent or otherwise than from her husband." But in either case what moral right has the husband to the property of the wife? Did he ever work for it or do anything else to obtain it other than marry the woman? But what will be the material difference in the law under this constitution and as it now stands where property is owned by the wife before marriage? Under the present laws if parties intending to become husband and wife think proper, they can provide by marriage settlement contract that the property of the wife shall remain her separate estate, in nowise subject to the husband's control or his creditors. Instances of this kind are not infrequent. And as an instance take the case of Mr. Strong of Racine, the great champion of this objection. Before he married, he entered into a marriage settlement with his intended, by which he secured to her, her property, and then went, himself, and took the benefit of the bankrupt law. But to provide for the wife by marriage settlement requires the employment of a lawyer and the payment to him of a fee of fifteen to fifty dollars. Now all the constitution does is to make the cases uniform and to dispense with the lawyer and his fee. But suppose the property to be acquired by the wife after marriage by gift or devise. Now, the probability is that the donor or deviser intended the gift or bequest for the wife and for her benefit—not merely that the property should go into her hands to be snatched out again by the husband. For in this case he would probably have given it directly to the husband and thereby avoided the snatching. But which, if he anticipated, and did not intend should happen, he certainly would have avoided, as he can now do under the laws as they stand by so framing the gift or will as to vest the property in the wife, despite the avarice of the husband. And so, too, that the courts of the country will protect her in its separate enjoyment. But here again the lawyer with his technicalities and fees would have to be called in. But the constitution proposes to dispense with these and vest the property in the person for whom it was really intended by a dying father or a kind friend.

But the objectors to this article say that they object to it more for the consequences which will result from it than anything else. They contend, with Mr. Strong at their head, that it will dissolve the marriage tie, that it will destroy conjugal affection and fidelity,

convert the wife into a termagant, with her separate business, and her pampered "paramour." In other and plainer words, that a little separate property will convert her into a prostitute. We know full well that Mr. Strong's experience has not taught him this. We well know that, though his late amiable and lamented wife possessed a separate property, she at the same time possessed a reputation as unsullied as the dew drop not only for virtue, but for prudence and economy as well as maternal and conjugal tenderness. Nor is it probable that our wives, daughters, and sisters will be very different, merely because they have property of their own. And Mr. Strong's aspersions are only the more slanderous and afflictive coming as they do from him, situated as he has been. Has our experience on this subject taught us the truth of Mr. Strong's reflection? Take the case of the poor widow, left alone and friendless, with but little, perhaps, but that little her own, and which might have been more if her husband had not possessed the power to spend her rightful property. See her gathering her little ones as it were under her wings, as a hen gathereth her chickens, struggling night and day for their comfort and happiness. Do you see her from this cause running into prostitution?

But when Mr. Strong uttered the above calumny he really seems to have been so afflicted by his own effeminacy as to have been driven into a fit of that truly feminine disease called hysterics. And during the paroxysm to have been haunted by the chimerical fear that the ladies of Wisconsin were about to snatch from him his only remaining vestige of manhood—his pants—and in their stead clap on to him the apron, petticoat, bustle, and all. And that the roosters were going to proclaim this sad event to the hills around. Well, really, this would be bad. But I do not think the ladies will ever do so, until they find a woman among them who is less a man than he is, which is not likely to happen soon. I shall, therefore, dismiss Mr. Strong with this proposition: That, for the purpose of perpetuating the memory of his speech, his slander, and his roosters, we christen him Mr. Cock-a-doodle-doo.

Next of the exemption: The principle asserted and promulgated in this clause is this: That the misfortunes or the follies of the many should never be made the means of concentrating the landed estates of the country in the hands of the few and crafty. I apprehend it will not be contended that this principle is wrong. Large proprietorships, combined with the tenantry system, are dreadful everywhere and under any form of government. These are now starving unhappy Ireland. These are to be a fruitful cause of our downfall



as a Republic, if that cause is not prevented by an interposition of divine Providence or the sensible action of the people. Small and independent proprietorships constituting a hardy, intelligent, and free yeomanry have been the boast of all countries, when their days were palmy and their people free. And may an all-wise Creator in the dispensations of his providence order that we may never be otherwise; and that that oppressed yet "sweetest isle of the ocean" may yet see its bloated and landed aristocracy humbled and its lands distributed and vested in the hands of those who toil and who are willing to toil for bread!

But it is contended that in carrying out this principle in practice great evils will result—and many frauds be practiced. It is rare that we see a good and honest principle honestly practiced upon which produces more evil than good. But suppose a few and the vicious should practice dishonestly under it. Is this to deter us from acting up to principle? Would they not equally be vicious and act fraudulently under any other system? Laws were never made with the expectation that they would govern the vicious, but to punish their vices. God in his earliest law to man said "Thou shalt not kill." But has this prevented murder? Christ in his holy sermon on the mount commands us when smitten on the one cheek to turn the other also. How easy would it be for the captious objectors to cry out against the Savior, that he was encouraging the strong, tyrannical, and turbulent to strike, wound, bruise, and maltreat the weak and the humble, without leaving the latter the right and power of self-defense. And in this manner get up the cry "Crucify him! Crucify him!" Frame a constitution as long as from here to Canton, and you can never prevent crime and fraud. The most we can do is to provide by the legislation of the state punishments for them when committed. But certainly a constitution should not be made a bill of pains, penalties, and punishments.

But what are the objections to this clause in detail? They are: First, that it will encourage fraud; second, that it will enable the landholder to cheat the laboring classes; third, that it will destroy credit. If these objections were well taken they would merit much consideration. But are they well taken? And first, will this exemption encourage fraud? I firmly believe the laws as they now stand, giving the creditor the right and power to turn families from home and shelter, do encourage fraud even among the honest. A man, we will suppose, has struggled up from poverty and want to the ownership and possession of a home—a shelter for his wife and little ones. He is now perhaps advanced in life; he has no more the power left



to endure again his earlier toils, struggles, and privations. He now imprudently lends his name as endorser to a friend who fails. Or in the affairs of life he executes a deed for property to which his title, unexpectedly to himself, fails. Or, if you please, he contracts an honest debt for stock in trade under bright hopes of ability and honest intentions to pay. But a revolution in the moneyed affairs of the country, the sinking of a vessel with his stock, or the consumption of it by fire destroys at once his hopes and prospects. He is sued as surety on the covenants in his deed, or for the debt contracted. Judgment must soon follow, to sweep from him home, fireside, family comfort, and enjoyment. What are the thoughts and feelings which rise up in his manly, yea, his yet honest breast? As he looks round upon a feeble wife, the partner of his early affections, upon his offspring so long his care and comfort, who unconscious of approaching destitution and want look smilingly in his face, he mentally exclaims: "Oh, that I were young again! I could earn another home—the hope would make me happy. But I am old; my hand is feeble now. But is there no way left by which my hopes may yet be brightened into life—by which my little ones may have a home, my wife a peaceful bed on which to rest, and where to die? None! All is gloom, as hopeless as despair! But stay (thus he reasons further): do not God's more innocent creatures protect, defend, and guard the mates and young confided to their care? Will not 'e'en the wounded dove' flutter awhile around its nest and offspring there and peck the hand upraised to do them harm? Their example I will follow; I will to my neighbor—him I can trust—he at least will not drive me out—to him I will convey my little home." It is done; and this man has committed what the world calls fraud, but to which he was driven by the laws of his country. And yet when returned home, and when kneeling at the family altar, this man may honestly and with a Christian heart thank God that even this poor shift was left to save his family from want and destitution! What is man that he should be obeyed rather than God? God has enjoined the duty of protection and nurture upon the parents. Man says he shall not have the means to obey the injunction.

But the rapacity of the creditor is not yet gratified. He files a credit bill to compel the debtor to discover whether or not the property is really his. His answer under oath is required. Now a different train of reflection passes through his mind. "And must I," he asks himself, "confess this act? If I do not, expressly, but remain silent, the bill is taken as true, and the act stands tacitly con-

fessed." His pride revolts, and besides, in either case his home must go. The thoughts of family and comfort, of old age and want again come over him. The institutions of his country have forced him to take the first step; pride forbids a retrogression. His moral firmness now gives way and falls; he is no longer honest, and the dark resolve is taken. He puts in his answer, falsely swearing that the conveyance to his neighbor was fair, bona fide, and for a valuable consideration. The cause is heard; but the time at which the conveyance was made, the fact that he remained in possession and enjoyment are badges of fraud sufficient to overcome his answer, and a decree is made that the property be sold. The sheriff is sent with his writ, and strikes off the home to the creditor, who has bought a dozen in the same neighborhood before. He demands possession:

Whereat the hastening angel (of the law) seizes  
In either hand these lingering parents,  
And leads them to the eastern gate direct,  
And down the hill, as fast, to the subjected plain,  
Then disappears.  
Some natural tears they shed, but wipe them soon.  
They hand in hand with wandering steps and slow  
Through Eden take their solitary way.

Ah, a solitary way indeed! He has now not only lost respect for himself, but the respect of others. Dissipation is his only solace, and the grave, to which he hastens fast, his only home. His wife worn out by care, fatigue, and want, soon falls a victim, too, while his children are thrown upon the meagre, scant, reluctant charities of a cold, unfriendly world, doled out through a poorhouse keeper's hands. What a moral and a social wreck is here! A wreck, too, caused by a fault in the present institutions of our country.

Now turn the picture. Take, under the proposed change in our system, the same man, with the same home and debts, and at the same family altar. As he contemplates the impending judgment, he can turn his eye to his country's charter hung upon the wall of his cabin and now thank his God that there is no necessity for a fraudulent conveyance in order to save a shelter for his wife and children. After execution is returned—"no property found"—a censorious world may for a time hold him in scorn. He may go with a bowed head and an humble mien, but, having been left his home and little farm, ere long, by dint of industry and economy, he is able to step proudly up and pay his creditor the "uttermost farthing," and be yet an honest man unstained by fraud—be yet a happy father, a happy husband, with a happy wife and happy children.

Under which system, think you, is fraud most encouraged? And in view of the beautiful contrast of the two, how puerile and con-



temptible sounds the objection that the latter will encourage fraud—and the argument that because the scoundrel may act the scoundrel still, honest worth should not be protected. Let the institutions of a country be liberal and guarantee the power and means to man to apply the energies given him by his Creator, and public opinion and morals will do more to correct individual cases of villainy than all the bloody laws of Caligula.

But will this exemption enable the landholders to cheat the laboring classes? The convention, as if aware of this contingency, have inserted in the exemption article this proviso: "That such exemption shall not affect in any manner any mechanic's or laborer's lien." The spirit and meaning of this proviso is evidently this: that any of the rights which the mechanic or laborer now has shall not be affected. If he has the right now to sell the homestead on judgment or execution, the constitution does not affect that right.

But it is contended that it is only a lien which is not to be affected, and which the laborer has not got. It is an old law maxim "that he who sticks in the letter sticks in the bark." Well, suppose for the argument that it is only a technical lien; what then? The constitution certainly recognizes the principle of a lien in favor of the laborer if it does not provide its details. Then all that is necessary is for the legislature to do just what it ought to have done long ago: pass a law giving the laborer a lien on the property of the employer until his wages are paid. Then most certainly the constitution would have its full and intended operation without any cavil. The laborer ought to have his lien. "He is worthy of his hire," and the constitution certainly recognizes his right and his worthiness. And for one I contend that it makes a wider stride towards doing the laborer justice than any other law, organic or statutory, in the United States.

Now will homestead exemption destroy credit? That it will, is the old argument against the abolition of imprisonment for debt, only not so aptly applied. But let us test this objection. I and one of you go to the merchant for credit; we are equally trustworthy in point of honor. You have your homestead; I have nothing—you have nothing that he can take on execution. Which of us will he sooner trust? Of course the one from whom he thinks he will be most likely to get his pay. Well, suppose he trusts us both, which will have the most ability to pay—you who have the land to till and the home to inhabit or I who have neither? Which blacksmith will the merchant trust sooner—the one who has a set of tools to earn money with or the one who has none? Certainly the former. And



yet, even now, the tools do not enter into consideration—so far as concerns liability to forced sale, they are exempt.

But there is another view of this subject to which I wish to call your attention: It is the inequality of our institutions in their operation on different classes. What is the lawyer's or doctor's capital? His book? Certainly not; or if so, why can not anyone practice if he has books? It is his legal or medical acquirements and talents which constitute his capital. How much can he make on this capital? Why, from \$500 to \$3,000 a year, depending upon the extent of his practice. Now can this capital be sold on execution for his debts?

Contrast this with the farmer: What is his capital—his oxen and horses? No. These would soon eat off their heads if he had no place to use them. What is it then? His land. Now suppose him to own forty acres, which by his industry and improvement he has made worth \$1,000. How much can he make out of his capital? Why, at the most, not to exceed \$300 a year. Now cannot this capital be sold on execution for his debts? Call you this equality? But the constitution goes far to guarantee equal rights and liabilities.

On the subject of banks and banking I shall say but little. I am not yet old—I have not yet reached the middle age of man. But I have lived long enough to have seen individuals and communities reduced to poverty, want, and almost beggary—states reduced to bankruptcy and repudiation—and a nation convulsed to its very centre by the corrupt omnipotence of banks and banking combined with a corrupt office-holding power. I have lived to see one bank, alone, able to buy the honor and purity of the second commonwealth in our Union. And I have since seen that same bank crumble and fall from its own innate rottenness, crushing in its fall hundreds and thousands who had confided in its rotten promises. But I have not lived long enough to have ever lost anything by being paid for my services or labor in gold and silver. Nor can I deem it a privilege to be obliged to take for sums under twenty dollars paper promises instead of gold or silver. Nor have I ever found it very difficult to carry or transmit such sums in specie. And when over that sum, it may be difficult or troublesome; by the constitution we are all entitled to carry or transmit bank notes.

Fellow citizens, I have now done. You may not deem what I have said worthy of your consideration. But when you have rejected the constitution—when you find yourselves deprived of its blessings, and suffering under the evils to which I have directed

your attention and against which I would solemnly warn you—then, perhaps, regret may assume the place of your contempt.

ISAAC P. WALKER

PLEAD THE CAUSE OF THE POOR AND NEEDY

[March 31, 1847]

EAST TROY, March 20, 1847

MR. BROWN: I once had an exalted opinion of Marshall M. Strong's intellectual abilities, but his speech against the constitution is neither creditable to his head nor to his heart. If he had studied his Bible before he attempted that effort he would not have fallen into such gross mistakes. His pretended quotation from the sacred volume to prove that woman should abandon all rights on becoming a wife is a gross perversion of the text. The Bible says, "A man shall leave father and mother and cleave unto his wife, and they shall be of one flesh." His reasoning is as false as his quotations. As he evidently reads the newspapers with more care than he does the Bible, I will transcribe from the blessed book the description of a virtuous housewife: "The heart of her husband doth safely trust in her, so that he shall have no need of spoil (Mr. Strong has his eye toward the spoil). She will do him good and not evil all the days of his life." But hear Mr. Strong: "When the husband returns at night, perplexed with care, dejected with anxiety, depressed in hope, will he, think you, find the same nice and delicate appreciation of his feelings which he has heretofore? Will her welfare and feelings and thoughts and interests be all wrapped up in his happiness as they now are?" Now listen to Solomon: "A virtuous woman riseth while it is night and giveth meat to her household." Mr. Strong's fears for his supper have frightened reason out of the back door. He says, "Will the word 'home' sound as sweetly" when woman calls her property her own? Answer him, ye wise one of Israel: "A virtuous woman, she considereth a field and buyeth it; with the fruit of her hands she planteth a vineyard. (How can a woman do this without property?) She perceiveth her merchandise is good; yea, she stretcheth forth her hands to the needy." This was the character of a virtuous woman, and the Scripture nowhere tells us that in the management of her property she took Tom Nokes as a partner or Richard Stokes as a paramour, which Mr. Strong implies as a necessary consequence of a woman's holding property. Neither did she neglect her children "for all her household are clothed in scarlet, and her children rise up and call her blessed—and her husband praiseth her. She openeth her mouth with wisdom, and in



her tongue is the law of kindness." Mr. Strong chooses rather to call her a harlot and says the effect of the constitution will be to destroy domestic happiness—that peace will spread her wings and soar away toward Oregon. If this constitution is rejected (which may Heaven avert) of course Mr. Strong expects to be one of the framers of the next one, and if with his exalted views of virtue, justice, and equality he should still fail to convert his colleagues to his opinions and exclude the thirteenth article, I shall expect to hear he has started for Oregon, crying, as he goes, like his fabled rooster "Woman rules here. So they do here. So they do everywhere. I am in search of liberty." As the women are in favor of the constitution as it is, Mr. Strong will be likely to have but a small chance. So adieu, dear Strong, if you are going.

Truth crushed to earth shall rise again,  
The eternal years of God are hers;  
But error wounded writhes in pain  
And dies among her worshippers.—*Minerva*

#### PROCONSTITUTION RALLY AT WAUKESHA

[April 7, 1847]

WAUKESHA, March 31, 1847

DEAR BROWN: The great gathering of the people of Waukesha County came off yesterday. It was a most magnificent affair. At an early hour the farmers and workingmen began to pour in, and before twelve o'clock the streets and public houses were literally alive with men from all parts of the county. While from the number present it seemed that "all creation" of Waukesha was already on the ground, the spirit-stirring strains of martial music were heard in the distance, and soon after the first load of the good and true from Mukwonago hove in sight with the glorious stars and stripes and constitutional banners floating proudly in the breeze. They were followed by some twelve or thirteen wagons bearing on the committee of one hundred, and some thirty or forty in addition. It is impossible to give you anything like an adequate idea of the spirit that animated the people as they poured in, load after load, on horseback and on foot, with banners floating, and the cheers and shouts of freemen rending the air. About this time word came in that a delegation of about sixty from Summit were on the way within a mile of town. Three hearty cheers went up for old Summit, and the music volunteered to go out and escort them in. Then came the delegation from Menomonee "good and strong" with horses decorated with banners bearing inscriptions: "No Banks," "The Insurance Company Don't Pay for This," and the like. Now the



Summit delegation appeared escorted by the Mukwonago music. Wagonload after wagonload came rolling on, while cheer on cheer and shout on shout greeted those noble and true men who, spurning the dictation of a few self-constituted leaders, have had the manliness to declare like freemen for the rights of freemen. Still the wagons from various directions and horsemen and footmen came sweeping on till it seemed as though the whole country was aroused by some mighty spirit which bore the masses together, to consult and determine upon their liberties and their rights.

About one o'clock the meeting organized in front of Vail's Hotel by the appointment of Richard Hardell as chairman. A stand was erected for the speakers, and Col. A. D. Smith of Milwaukee was called for. He mounted the stand and spoke to the people for two hours, the wind whistling and the air piercing cold. Yet so eager were the people to hear the great principles of human freedom discussed that they remained intent listeners during the whole time. During Colonel Smith's speech, while he was portraying the iniquities of the swindling banking system, some anti let down from the piazza of the hotel a coon skin, which the speaker perceiving pointed to as a fitting emblem of the condition of the moneyed power, shivering in the breeze, hanging by its last thread, bodiless, and spiritless, and, as the man said upon the gallows, with but a string between him and ruin.

Colonel Smith was followed by Mr. Wilson of your city, who made a most pathetic appeal to his fellow workingmen. The meeting was also addressed by Messrs. Richmond of Eagle, Hunkins of New Berlin, Bovee, Randall, and others with great effect.

Taking the meeting altogether it was one of the most enthusiastic, numerous, and magnificent popular demonstrations I have witnessed since 1844. It has decided the fate of the constitution in Waukesha. Rub out all that you have put down against the constitution in Waukesha.

Yours truly,

"ONE OF 'EM"

#### THE RESULT

[April 14, 1847]

In this city and county the Whig party aided by the combined money power has achieved a temporary victory. The great struggle has been between labor and money—between equal rights and free suffrage on the one side and special privileges and partial legislation on the other. In this city the unequal contest has gone slightly in

favor of the money power. We think it likely the same result has followed in the villages and towns along the lake shore. But whatever may be the result in the territory, we are satisfied with having done our duty and we are proud of the Democratic party. The elements against which we have warred cannot be combined again. Our cause is based on the eternal principles of justice and human rights, and, though "crushed to earth, will rise again." Those leaders who in the hour of peril deserted the people's cause may now enjoy a temporary triumph with the people's enemies. We leave them with their Whig allies to reap the fruits of their joint victory. They have been very anxious to be dignified as "martyrs" and to claim some sympathy for being "read out of the party." Nobody has attempted such a thing but themselves—but they are now glorying in the defeat of their friends and their party. They have joined themselves "to their idols," and if hereafter the Democracy "let them alone," they will have no cause to complain. We envy not their triumph and we covet not their rewards; and we hope and trust that many a long night may intervene between this and the dawn of that day when the Democratic party shall look up to such a clique as their tutelary deities.

We earnestly hope that the documents that have gone out in this campaign from the two parties may be preserved, that when truth again bears sway they may be referred to, and the people may see what were the means used to deceive, mislead, and turn them from their own true cause to the support of a reckless and unprincipled combination of political and financial speculators. Keep them, that your children may see the desperate means used by the money power in your day to make the producers tributary to the monopolists. Keep them, that, if this constitution is defeated, you may know what confidence is to be placed in those men who resorted to falsehood and forgery to defeat it; and when, if ever, another election is called for delegates to frame a fundamental law for our dear Wisconsin such men may not be the lords of the ascendant.

With heartfelt pride and exultation we look upon the vote that shows eleven hundred and fifty true men in this city who dared honestly to stand by their principles. When denunciation and persecution followed every man who spoke or moved in favor of our "freedom's charter"—when loss of employment was threatened to the laborer—when the pains and penalty of the law were held in terror over every man who owed a merchant or money changer—and bribes and baits held out to them in every shape and form that ingenuity could devise—eleven hundred and fifty men spurned

it all, and true to themselves and true to their posterity, looking alone to the guiding star of principle, boldly voted as reason dictated and freedom required.

Ten thousand dollars at the least calculation have the enemies of the constitution in this city expended for the meager majority of 288. A barren victory is all they have obtained. The fruits are as far from their grasp as ever. We never advocated this constitution as perfect, but have an abiding confidence in the people that the great principles contained in the constitution will be adhered to and embodied in the fundamental law of the state of Wisconsin whenever we take our place in the family circle of sovereign states. With this assurance in our heart we shall fearlessly and unshrinkingly advocate them with whatever ability God has given us until they are triumphantly approved or our hand and heart paralyzed by the cold touch of death.

#### A DEMOCRATIC POST MORTEM

[April 14, 1847]

At a large meeting of the Democratic electors of the city of Milwaukee, held at Military Hall on Saturday evening, April 10, 1847, pursuant to notice given, the Hon. George H. Walker was chosen president, John Hess vice president, and Charles S. Hurley appointed secretary.

On motion of Clinton Walworth Esq. a committee of nine, which was afterwards changed to twenty-one, was appointed to report resolutions expressive of the sense of the meeting. Whereupon, the following named gentlemen were appointed said committee: John P. Helfenstein, C. Walworth, J. H. Cordes, Levi Hubbell, John Fitzpatrick, D. Upman, R. N. Messenger, T. O'Brien, A. W. Starks, Andrew McCormick, David Merrill, Dr. F. Huebschmann, James Nugent, Wm. K. Wilson, M. Walsh, Wm. P. Lynde, Moritz Schoeffler, I. P. Walker, A. D. Smith, H. Hartell, John A. Brown. The committee after having retired returned and reported the following resolutions, which were unanimously adopted:

*Resolved*, That the great contest we have just passed through was one which defined the principles and stamped the character of parties; that, though unsuccessful, we are not disheartened; though defeated, we are not subdued; we look forward with cheerful hearts to the day when our cause—the cause of humanity—the cause of equal rights—the cause of the people—shall triumph through the patriotism, the intelligence, and the democracy of the people themselves.



*“Resolved,* That we did not support or claim support for the constitution as a perfect instrument; but as one which with a few objectionable features embraced more wholesome, wise, and patriotic provisions than any that had ever been devised for any people; that as such we deemed it incomparably better to adopt and then amend it than by rejecting it to give the enemies of popular rights the means of creating and perhaps forcing on the people one far more objectionable.

*“Resolved,* That, while we bow with respectful deference to the decision of the ballot box, we here declare our present and unalterable adherence to the great leading articles of the constitution which has just received our support; and we vow our uncompromising hostility to any and every constitution for Wisconsin which shall not substantially embrace them. We hold these principles to be sound, true, and indispensable:

“First. Suffrage, free, equal, and universal, to all the permanent white inhabitants of Wisconsin whether native or foreign born.

“Second. The election of all public officers by the direct vote of the people; and a total abrogation of executive patronage.

“Third. Low salaries; short terms of office; and the absolute prohibition of the right to resign one office and take another.

“Fourth. A legislative body, adequate in point of numbers fairly to represent the whole state, and which may be equally above the threats of power and the seductions of money.

“Fifth. An elective judiciary responsible to the people and through which no irresponsible appointing power can dictate law-making on the bench or abrogate existing laws by judicial construction.

“Sixth. Ample provisions for common schools, to be enjoyed equally by all without distinction as to nation, sect, or religion.

“Seventh. A liberal exemption of property from forced sale under execution for debt, except such debts as may be owing for the services of mechanics or laborers.

“Eighth. The denial of all power to the legislature to incorporate any bank; and of all authority to establish a general banking law unless the same shall first be submitted to a vote of the people.

“Ninth. The absolute prohibition of all state debts except such as may be rendered necessary by insurrection or war or for the support of the government.

*“Resolved,* That a constitution embracing these several provisions and none of an objectionable character shall receive our cordial and firm support.

"*Resolved*, That we enter our solemn protest against any constitution which provides for a small legislative body and at the same time leaves the power of legislation unrestricted, so that the halls of the capitol shall be annually polluted with the presence of the money power, seeking through corruption and combination the charter of banks, the issue of state stocks, the undertaking of gigantic schemes of improvement or the passage of some swindling system of banking under the honied name of a free banking law.

"*Resolved*, that we invoke the lofty patriotism and sterling intelligence of the masses of the people of Wisconsin to a calm review of the principal features of the rejected constitution, which we have here designated, and which we deem vital and indispensable to their peace, freedom, and good government, and if we are right—as we firmly believe we are—we invite them cordially to unite with us in giving this their own cause a fearless and unswerving support; and for us, we here pledge ourselves to them and to each other to stand by the great principles which we have here announced until they finally triumph by the voice of the people."

On motion of Clinton Walworth Esq., the following named gentlemen were appointed a committee to prepare and publish an address to the Democratic electors of the territory of Wisconsin: Clinton Walworth, Levi Hubbell, S. Park Coon, Herman Hartell, I. P. Walker, and J. B. Smith.

On motion, it was "*Resolved*, That the proceedings of this meeting be published in all the Democratic newspapers in the territory."

The meeting, after having been ably addressed by S. Park Coon, A.D. Smith, Levi Hubbell, and I. P. Walker, adjourned.

GEORGE H. WALKER, President  
JOHN HESS, Vice President  
CHARLES S. HURLEY, Secretary

#### JOSIAH A. NOONAN ANSWERED <sup>25</sup>

[May 26, 1847]

The last number of the *Madison Argus* contains a letter addressed to the *Detroit Free Press* over the signature of Josiah A. Noonan, the postmaster of Milwaukee, in reply to a letter which appeared in the *Free Press* of the 27th ult. As Mr. Noonan has thought proper in his reply to refer the authorship of the letter in the *Free Press* to an old, long-tried, and cherished Democrat, and made it the occasion for heaping upon him epithets and abuse, I have thought it but just

<sup>25</sup> For Noonan's letter, here answered, see *supra*, p. 348.

to all concerned that the author of the letter should avow it and defend, as he is prepared to do, its statements. I <sup>26</sup> wrote the letter to the *Free Press* and attached my own proper signature to it and am responsible for its contents.

Mr. Noonan's letter is a studied defense or justification of himself and others for abandoning the Democratic party and uniting with the Whigs and abolitionists to defeat the constitution. The gist of his defense is not that he is not guilty, but that the Democrats who maintained their fidelity to the party in its severest crisis are even more guilty than himself, as the abandoned and deprived always look upon virtue as the quintessence of shrewd villainy.

He says, "It is true that I did in common with eight thousand other Democrats in this territory vote against the crude and ill-digested thing called 'the constitution,' and we claim we had the right so to do both as citizens and as partisans." No one will dispute his or their right to do so as citizens; but Mr. Noonan's right to do so as a partisan is denied. He claimed to be a Democrat; he is continued in a responsible office by a Democratic administration; his duty as a partisan was to prevent discord in the party, to come up to the support of the great principles contained in the constitution, which were approved and sanctioned by the Democracy of the whole country. He saw the Democracy everywhere rallying to its support. His duty was to heal any divisions likely to occur. But instead of this he aided by both his counsel and his pen the Whig and abolition leaders and presses to sow dissensions in our ranks, rallied his forces to widen the breach, and is now talking and writing against the party with all the bitterness of desperation, in order to render the division permanent.

The postoffice being in his hands, thousands of letters and documents were widely circulated of which the Democrats knew nothing, while all our documents and communications, having to pass through the same channel, could be readily known to the opposition.

The Whigs from the earliest period to the close of the contest were incessantly rallying their party in opposition, and so successful were their exertions that they boast that not one in a hundred voted for the constitution. Mr. Noonan and his colleagues called meetings in opposition, styled "Democratic," and the Whigs answered to the call. Handbills were published and Whig names swelled the list, assuming for the time being to be Democrats. All these things were done by Mr. Noonan and his associates, in intimate conformity to

<sup>26</sup> John A. Brown, editor of the *Courier* from 1843 until June, 1847.



the plans of dividing the Democratic party before that time shadowed forth by the Whig organ of this city; and during all this time they were pouring forth through the columns of the *Sentinel and Gazette* professions of the most redoubtable Democracy, just as yielding virtue assumes a firmness it does not feel, in order to add keenness and vigor to the appetite that assails it.

But it is far, very far, from the truth that eight thousand Democrats voted against the constitution. It is an old game of party-treason, to seek palliation of its offense in the numbers of accomplices. Whether the alleged fact be true or false, it is ever an unfailling salvo, to be used till the mask of fealty is entirely discarded and embrace with the enemy has become open and avowed. With this pretense and under the pretext of "no party question" went off the conservative faction on the occasion of the removal of the deposits and the issue of the "specie circular," and they continued their fancied disguise till the progress of events led them to embrace the United States Bank with all its corruption. Time will determine whether the Wisconsin conservatives, under the lead and drill of Josiah A. Noonan, will reach the destination to which their feelings, principles, and actions so clearly and strongly tend. The entire Whig and abolition vote in the fall of 1845 nearly equalled the Democratic vote for Mr. Martin. The vote for Martin was in round numbers—say 7,000; the Whig and abolition vote nearly the same. Now if the parties have increased in equal proportion, we should expect the Whig and abolition vote if cast against the constitution to equal the Democratic vote if cast for it. It is well known that the entire Whig party with fewer exceptions than occur at any general election voted against the constitution. The abolition vote was cast entire against it also. The whole vote in favor of the constitution was 14,119; the whole vote against it was 20,233—majority against it, 6,114. Now from these data we can estimate very nearly the Democratic vote against the constitution. If the Whig and abolition vote be equal to the Democratic vote, then 3,057 Democrats voted against the constitution. But suppose we have a Democratic majority of 2,000 over the Whigs and abolitionists; then the Democrats who voted against the constitution would number 4,057. This is the highest estimate that can be put upon the number of seceding Democrats, while we have 14,119 good and true, tried spirits, whose political integrity no arts nor blandishments of time-serving leaders can seduce.

Mr. Noonan also seeks to justify his defection by reiterating the old story that the adoption of the constitution was not a party

question. We know of no subject matter so appropriate for a test of party principles as the organization of a government. It is then that the real principles of parties are brought to the test. Equal rights and self-government, on the one hand, and protection to monopolies and favoritism to speculators and financial cliques, on the other. Not a party question! Abandoning party when the organic principles of party are the issue and adhering to party only when office is to be the reward of fidelity may well comport with the political ethics of Mr. Noonan, but the avowal by him, although in conformity with his practice and character, is but a poor compliment to the honest Democracy of the territory, who love their party for the principles it cherishes.

Mr. Noonan says the members of the convention who signed the constitution and the territorial legislature declared that the constitution was not a party question. This is not true. The members of the convention as far as they could do so emphatically pronounced it a party question. This is proved by the address and resolutions of the Democratic members of the convention. It is true that after repeated efforts in caucus and repeated failures at the very close of the session and after many members had left the capitol the few remaining members of the legislature did resolve or pretend to resolve that the vote upon the constitution was not a party question. But everybody knows that that resolution was smuggled into being after it had been repeatedly rejected, and was finally adopted, if at all, as a horn of refuge for Mr. Noonan and his associates who had spent the greater part of the session at Madison in organizing the opposition to the constitution and arranging the plan of the campaign.

I speak what I know and what was a notorious fact at Madison when I declare that previous to Mr. Noonan's arrival during the late session of the legislature those Democrats gathered at the capitol who objected to portions of the constitution had very generally determined to vote for it in consideration of the paramount importance of the admission of Wisconsin into the Union as a sovereign state and to call upon the legislature at an early day for an amendment of what they considered obnoxious provisions, in the manner provided by the constitution itself. The resolution alluded to was a device to steal back into the Democratic household after the consummation of the plans of treachery concocted by Mr. Noonan and his associates.

It may be asked what right had the members of the legislature to assume the prerogative of the people and decide what was Demo-



cratic and what not—what the people would recognize as Democratic principles and what they would not? The people are aware that the Democratic party is organized upon great and fundamental principles, and whenever these principles are in question the popular heart beats anxiously for their preservation. They thrill through every nerve and call forth every energy of the true Democrat, and the party requires a support of those principles from every member. He who has no sympathy with or love for them may flatter himself that party questions are raised and annulled by the decrees of a few demagogues in conclave; but the people will demand quite another test. He may fancy that absolution for treason may be granted by a packed legislative caucus; but he will find in the sequel that another tribunal is to try the issue and pronounce the judgment.

Mr. Noonan says that the friends of the constitution did more than the recusant Democrats to gain the support of the Whigs. This assertion is intended for effect abroad, for he knows that no one at home will believe him. The meetings of the anti-Constitutionalists were, indeed, called as “Democratic” meetings, but they were attended by Whigs. The resolutions were dictated by Rufus King and N. P. Tallmadge. The plan of the campaign as agreed upon at Madison was discussed by General King of the *Sentinel and Gazette* and Mr. Noonan in the back room of the postoffice, matured by Messrs. Noonan and King in the dark recesses of the *Sentinel* office, and in conformity to which the “anti” meetings were called as “Democratic” meetings, and the Whigs rallied to them to sustain Mr. Noonan and his associates in their war upon the Democratic party. Whig documents were printed at the *Sentinel* office and circulated all over the territory, forwarded from the Milwaukee post office under addresses in Mr. Noonan’s own handwriting. The Whigs of Milwaukee issued a circular to the Whigs of the territory, calling upon them as party men to strain every nerve to defeat the constitution, which document was in like manner circulated by Mr. Noonan and his associates. Democratic and Whig orators, the former under the peculiar patronage of Mr. Noonan—a “Tip an’ Tyler” man of 1840, with sympathies and feelings in unison with his keeper, met in harmony with Mr. Arnold and Mr. Tweedy upon the stump, to beat down Democratic principles and elevate the standard of Whiggery. The great public meeting held in this city on the Saturday previous to the election was a combined effort of the Whigs and Mr. Noonan and his associates. N. P. Tallmadge was invited from his home, a distance of over one hundred miles, to lead off in this great “Democratic” demonstration. The “bills of partic-



ulars" stated that the meeting (Democratic of course) would be addressed by Hon. N. P. Tallmadge, John H. Tweedy, H. N. Wells, and others. Mr. Tallmadge appeared, and the burden of his speech was in praise of the beauties of banking and abuse of all those who sustained a constitution with such ultra doctrines. He claimed to be a real Simon Pure Democrat and ridiculed the ignorance and barbarism of the crusade against banks and banking, asserting that they were "the distinguishing features between liberty and despotism, refinement and barbarism," that the "contractions and expansions of the currency are as necessary to the health of the body politic as the contractions and expansions of the heart are to the human system." He alluded in a strain of exultation to the result of the presidential election of 1840—said reading out of the party had no terrors for him—spoke of Martin Van Buren as a musty volume laid up on the shelf, etc. He was followed by H. N. Wells, who in his own classic language said, "If I can defeat this constitution, the Democratic party may go to hell!" Mr. Tweedy tickled the Whigs without offending their new allies, while Mr. Holliday, the echo of the postmaster, repeated his efforts of 1840 upon banks and banking and general abuse of the Democratic party—all harmonizing delightfully in their great purpose of beating down the distinguishing principles which divide the two great parties and of erecting a faction which might thereafter hold the balance of power for bargain and sale as the one party or the other might have the most to offer.

Such was the plan, such the conduct of Mr. Noonan, the prime mover of the opposition to the constitution. His great object was to keep Wisconsin out of the Union. As he has repeatedly declared that the next national administration will be Whig, he sought to acquire an intermediate footing between the two parties, that he might glide from the one to the other by an easy transition and retain his office in either contingency. His unmitigated abuse of the Democratic party, 14,000 strong, is designed to keep up the division in the party that he may retain the position he occupies till after the presidential election of 1848, when he will shape his course as events shall indicate.

Mr. Noonan has dragged before the public the names of three private individuals who belong to the Whig party but voted for the constitution. These it is fair to infer are the only Whigs he could muster in that category or he would not have thus singled them out. As an offset, I will extract from a handbill now before me, issued under the auspices of this honest politician, as follows:

## DEMOCRATIC ANTICONSTITUTIONAL MEETING

At a meeting of the Democratic delegates representing the several wards of the city of Milwaukee, held at the Common Council Room, April 5, to nominate city officers for the ensuing election, Solomon Juneau was called to the chair, and J. B. Allen appointed secretary.

The following delegates appeared and took their seats:

*First Ward*—Solomon, Juneau, Dan'l Wells Jr., J. B. Martin.

*Second Ward*—Byron Kilbourn, C. W. Schwarts, J. A. Phelps.

*Third Ward*—J. B. Allen, Frank Davlin, J. Goggin.

*Fourth Ward*—J. L. Doran, Patrick Gallagher, Moses Kneeland.

*Fifth Ward*—J. B. Zander, J. G. Barr, N. L. Herriman.

Here is a specimen of that "shrewdness" which is the boast of Mr. Noonan that can in the twinkling of an eye transform those old wheel-horses of the Whig party, Phelps, Goggin, and Zander, into "good enough Democrats" to serve the purpose of delegates to a "Democratic Anticonstitutional Convention." On the same ticket nominated at this "Democratic" convention was run the aldermen for the several wards, composed of Whigs and Democrats indiscriminately, the whole headed "Democratic Ticket."

Mr. Noonan repels as a falsehood the imputation that he is a "bank Democrat," and says, "There is no spirit of bankism, conservatism, or political treachery abroad here out of the knot of corruptionists and blacklegs that are now grieving the hardest and crying the loudest over the defeat the constitution recently met with." As far as Mr. Noonan is concerned, this may be true. His connection with the wildcat banks of Michigan may have been to illustrate the evils of the system in his own person, like the drunkard who traveled with the temperance lecturer, to give specimens of the revolting degradation of drunkenness. Thus Mr. Noonan, when he started the Berrien County Bank, and as cashier of that institution made his monthly statements of its condition under oath, perhaps only intended to show how dangerous to the interests of the people is a reliance upon such security for the solvency of the bills of a banking institution. At all events, when at the end of some six or seven months the concern was closed up and the receiver found three red cents and no more as the cash capital, with some fifty thousand dollars in individual notes, which were sold under the hammer for less than one hundred dollars, and these the whole assets of the bank, while forty or fifty thousand dollars of its bills were afloat in the hands of the industrious people of the neighborhood, they felt a conviction of the evils of banking which no argument without the illustration could possibly have produced.

The close of this characteristic letter of our worthy postmaster is peculiarly complimentary to the Democratic party of the territory in general. The convention, which was composed almost entirely of

delegates chosen by the suffrages of the party in the several counties of the territory, he mentions in the following flattering style: "It convened in disorder and ill-humor, sat in confusion, and adjourned in disgrace." Why were the people so little aware of their incapacity to select their agents? Perhaps, since Mr. Noonan has "shown them up," they will be more modest in the future and allow him to select for them the delegates to the next convention; or what would be just as well, let him and General King make a constitution for the new state and pass it at a mass meeting convened in the back room of the postoffice. The fourteen thousand Democrats who voted for the rejected constitution must be convinced by the arguments of Mr. Noonan that as "corruptionists" and "blacklegs" they have no right to interfere in matters concerning the welfare of the body politic.

In conclusion, we would barely suggest to Mr. Noonan to be careful hereafter and not let his utter malignity of heart so far overmaster his usual cunning as to attack on mere suspicion one so preëminently entitled to the respect and gratitude of the Democratic party and whose position, morally and socially, necessarily gives him a deserved influence in the community where he resides. To talk of gratitude I know would be dealing in the "dead languages" to Noonan. If a spark of that virtue ever lit up a remote corner of his heart it was long since quenched in the bitter waters of envy and malice, which are constantly welling up from the depths of a soul incapable of appreciating anything better than its own deformity. To bedaub with dirty epithets a man whose disinterested efforts and those of his family to sustain him when overwhelmed with a sea of popular indignation were the only acts of a long and useful life which ever cast a shade of suspicion upon his political character is quite consistent with Mr. Noonan's depravity of heart, but not done with his usual "shrewdness." It shows how the truths stated in my letter to the *Free Press* annoy him, but it does not help his case.

If he should deem it expedient to rewrite his letter, since he knows the author of the one to which he attempted a reply, he will find me always ready.

JOHN A. BROWN



SELECTIONS FROM THE LANCASTER WISCONSIN  
*HERALD*

## A BALLAD OF THE CONVENTION

[December 31, 1846]

It was a thing unthought of by our sires.  
 To flash intelligence along on wires;  
 But lightning now has stooped to carrying mails:  
 Yet, like all other agents, sometimes fails.  
 So failed our great convention, met at Madison.  
 Where Moses threw his cane at one Magone;  
 Where Hunkers, Tadpoles, Crawfish, took their pay,  
 Then stooped to steal themselves four bits a day!  
 There rogues for bankrupts fixed a cunning plan  
 To keep their gain and gain whate'er they can,  
 To make the wife change places with her lord  
 And consummate a general scheme of fraud.  
 They knocked all paper currency "to fits";  
 Then paid their board off with certificates!  
 Refused to make our boundary the St. Croix,  
 And docked the state one member to annoy.  
 This extra service of the state to pay  
 They vote themselves an extra half per day,  
 Place their abortive constitution on a hearse  
 Then, like a school of cuttlefish, disperse.  
 As at the rising of some radiant star,  
 Whose trembling rays glad millions hail afar,  
 Dense fogs from swamps and stagnant fens arise  
 And hide its welcome radiance from their eyes;  
 So has the mist of vapping demagogues  
 Obscured Wisconsin in its nauseous fogs.  
 "The world," cries one, "is too much governed,  
     or has been";  
 'Tis not as true as that the world drinks too much gin!  
 When shall we see triumphant virtue's cause?  
 An honest constitution? Vigorous laws?  
 When drunken blacklegs leave our public halls!  
 When the vile dynasty of rowdies falls!

## THE BOUNDARIES OF WISCONSIN

[January 9, 1847]

Looking at the provisions of the Ordinance of 1787 which, un-repealed, has the full force of constitutional law, it is as plain as daylight that Wisconsin is about to be most flagrantly robbed of a large share of her rightful domain. The ordinance provides that "if Congress shall hereafter find it expedient they shall have authority to form one or two states in that part of the said (Northwest) Territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan." It is plain that the ordinance means this: that if Congress should ever form a state or two states in the Northwest Territory, north of Illinois, the southern boundary of the state or states so formed shall be the east and west line drawn not north of, but through the southerly extreme of Lake Michigan. Congress is now about to form a state (Wisconsin) north of said east and west line. When Congress admitted Illinois into the Union with her present northern boundary it was with the express understanding and expectation that her northern boundary would be altered—carried south—whenever Congress should find it expedient to form either one or two states north of Illinois. That contingency has occurred, and the northern boundary of Illinois is now subject to be altered—to be removed to said east and west line. Those fourteen counties in Illinois north of said line came under the jurisdiction of Illinois with a proviso, on a condition, and for a period of time which was to terminate whenever Congress deemed it expedient to form a state north of Illinois; whenever a state should be thus formed north of Illinois they were to constitute a part of it. When Congress last winter provided for admitting a state north of Illinois, every free inhabitant north of said east and west line became ipso facto absolved from all allegiance to Illinois. This is the plain English of it. These are our rights—rights which ought to be manfully maintained, but which have been most shamefully abandoned. But let us see what our delegates have done. Have they, as the act of Congress of last winter authorized, embraced even within the northern limits of Wisconsin all the waters of the St. Croix, a river destined hereafter to connect an immense trade between Lake Superior and the Mississippi? Not at all. A fine strip of territory has there been sacrificed—bartered away—by the convention. Thus Wisconsin is robbed of land at both ends, besides having her pockets picked!

## DEFECTS OF THE CONSTITUTION

[January 23, 1847]

Among the numerous defects in this instrument may be noticed the article concerning the judiciary. The judges, five in number, are to be elected, each in his own district, and yet each can serve in the district which elected him but one year in five. By the operation of this fundamental law the people of one district will elect judges for the others four-fifths of the time! We supposed the object of elections was to let the people choose their own officers. But the convention have decreed, if the people sanction it, that one portion of the state shall elect an important officer for other portions. Would it not be equally just for one county to elect other officers for other counties as well as judges? Suppose Grant County were to elect a judge of probate, sheriff, commissioners, etc., for Iowa, and Iowa for Dane, and Dane for Milwaukee, and Milwaukee for Grant, etc. Would it not be equally just? Yet who would bear such an encroachment upon their rights of franchise? But before they vote for the adoption of the present constitution let them reflect that if they do so they vote for an instrument that will authorize other portions of the state to elect their judges for them for four years out of five.

This uncouth instrument is impracticable on other accounts. What lawyer who is competent to fill the bench does not make more at the bar than his salary will be as judge? Such men will not accept of a judgeship, break up their present lucrative practice, and be absent from home most of the time for four years out of five, in which time not only their practice at the bar is lost, but on account of their necessary absence their domestic affairs must be neglected, and if they have families, as most have, or ought to have, they can hardly visit them, much less enjoy their society four-fifths of the time. And at the end of the term—if not “addressed” out of office before—should they not be reelected—which they can hardly expect to be if rotation in office is to be kept up—they find themselves out of office, out of business, their domestic affairs deranged or in ruin, and their families mere strangers. Who, we say, that is competent, will take a judgeship under such circumstances?

Those who have neither talent nor learning to fill the bench honorably to themselves and usefully to the people and who of course have but little or no practice no doubt would jump at such an election. But as we take it for granted that if a lawyer has talents to qualify him for a judge he has talents to command a practice, which



with the proper management of his domestic affairs will bring him a better income than the salary of a judge and will not, therefore, subject himself to such inconvenience and loss of domestic comfort, four years out of five, for the honor of being a judge. If a judge could remain in the district for which he is chosen and thereby be in reasonable reach of his home and domestic circle he might sacrifice whatever his practice would be worth over his salary for the sake of the bench, and especially if he intended at the expiration of his term, if not reelected, to retire from business. But if, being a judge, he must add to his other sacrifices that of wandering from home like a lonely old bachelor and be alienated from his family, and besides all this be judging over people four-fifths of the time whom he knows did not vote for him for the office, he must have a morbid sensibility, be a mere demagogue, or in accepting the office give ample proof that he is deficient in talent to procure a living at home and is therefore not fit to sit on the bench.

SOLON

#### ANOTHER CONVENTION

[January 30, 1847]

It was a great oversight in our legislature last winter not to have provided for the contingency of the constitution being rejected. Had not our legislature before it the example of Iowa, whose people had just then rejected their constitution? Why submit the constitution at all, if we are not left free to adopt it or reject it on its merits? Why present to us the question of adoption in such a shape as to leave no alternative, no retreat? Nay; the strongest argument, the only argument left in favor of it, is that we are cornered and must take this constitution or none. No man now ever pretends to defend it or advocate its adoption upon any other grounds. Is it freedom of choice where, like Mr. Hobson, we have only one to choose from? Is it not a charming commencement in independent government to have a constitution thrust upon us? If a band of Mexican robbers meet a traveler in a mountain pass and politely ask him for the loan of his gold watch, which he accordingly delivers up, we call it robbery. Unbiased volition is freedom; anything short of it implies necessity, compulsion, slavery. Freedom multiplies alternatives and opens the door of retreat. Tyranny destroys alternatives and cuts off all retreat. It commands battalions of living men to advance upon the imminent breach and enforces the command with the bristling bayonets of other battalions in the rear.

When Cortez landed his Spaniards in Mexico he burnt his fleet, so that the only alternative left for his troops was to fight. It is to be hoped that we have no civil Cortez in our present legislature who will be disposed to cut off our retreat from an obnoxious constitution. This thing of being pricked onward is practiced upon the plantation and in the army, but we are not, thank God, quite prepared for it in Wisconsin. A bill is now before our legislature, providing contingently for another convention. If the constitution now framed should be rejected, this bill provides for another and more select convention at a period so early that if it be adopted by the people, Wisconsin may come into the Union as early as she might under the constitution already framed.

People of Grant! Send in your petitions to the legislature for the passage of this bill. We have a sensible, reasonable, untrammelled legislature, who dare to do right and will listen to your petitions. The choice of a constitution is a matter that rises above all party considerations. The constitution is the stamp and impress of state character. It is the duty of every man to see to it at this hour that the "state receive no detriment." It is the hour of imminent peril. Let every man stand by his post, and when our ship of state is all ready for the launch, with her rigging and her white canvas all complete, without a strip of piratical bunting about her, or a solitary drunken buccaneer on her quarter deck, let her ride into the squadron of states, the pride and admiration of the world.

### THE CONSTITUTION

[March 27, 1847]

We have written and published against the constitution all the objections to it that we deemed valid. The people in the western part of the territory have from the beginning taken it upon themselves to judge of the constitution. The intelligence of the mines cannot be misled. Our electors have read, considered, and decided the question for themselves. The flaming harangues of noisy stump orators and the frothy sophistry of the press have had little to do with the making up of their verdict. The calm, sober judgment of Grant County, at least, condemns the constitution. The people here have acted, for they have no leaders and no party organization to swerve them from the sober exercise of their judgment. Not a solitary speech has here been made against that instrument that we know of. Both of the presses have uniformly sought to place the question of its adoption upon grounds entirely above and indepen-

dent of parties, although Whigs are known to be far more numerous here than Democrats. What means the *Argus* at Madison, while it assumes the ground taken by the Democratic caucus at [the] capitol that this is no party question—while it walks the fence like a mountebank between the Democratic friends and the Democratic foes of the constitution to prate about the misrepresentations of the “neutral Whig presses” of Grant? If there is a press in Wisconsin more in state of “betweenity” than another, that press is the *Argus*, which is always crying “Good Lord” to Marshall and “Good Devil” to Moses. The *Argus* can look as many ways as its fabulous namesake.

#### BUCKEYE'S VIEWS OF THE CONSTITUTIONAL SITUATION

[March 27, 1847]

Mr. Editor: I find the opinion has obtained to some extent among the honest, industrious, and economical classes in this territory that in case the constitution is rejected, the enormous expense of another convention will have the effect to bring a heavy state debt upon us and make our taxes insupportable. I propose to examine the grounds for these fears upon the principle of economy and see whether we are to be losers in dollars and cents by rejecting the constitution and calling a convention to revise and amend. And permit me to give my humble opinion as to some of the most essential amendments which we may reasonably expect to be made by a convention called for that specific purpose. My opinion upon this subject is the result of a close and careful observation of the objections raised to the constitution and the wishes of the people relative to those objectionable features. In the first place we may reasonably expect an amendment of article five, so as to reduce the number of members of our legislature—say to 60—20 would no doubt be too small a number, while 100, the number authorized by the constitution to compose our first legislature, is certainly entirely too large; and don't forget that the number at any time may be increased by the legislature to 160. To avoid both extremes in this matter is certainly the most politic. I have conversed with many of my fellow citizens upon this particular proposed amendment and have found them invariably of the opinion that this number would be sufficiently large for the next ten years. Now let us make a calculation and see how the case will stand upon the score of economy. The mileage of 40 members (the number we consider surplusage) at the average mileage of the members of the convention will amount to about \$680; add to this \$120 for stationery, etc., which



is a very moderate estimate, and we have \$800. The per diem allowance is \$2, which will in 40 days amount to \$3,200, making the aggregate \$4,000 in a single session of 40 days, saying nothing about small incidental expenses, such as for papers, postage, etc. Multiply this by ten, the number of years we propose to have the number 60 to answer, and we have the very pretty sum of \$40,000 useless expenditure under this creature called a constitution—I say creature for the reason that some of its features seem to transcend the bounds of formation, and hence the propriety of the term chosen to cover the case. And again suppose our legislature at their first sessions should think proper in their wisdom to increase their number to the extent of their authority. The unnecessary expenditure in ten years will amount to about \$100,000. I have lived long enough and have observed closely enough to satisfy myself that legislative bodies are frequently composed to a considerable extent of cool, calculating politicians, in whose affections the interest of the dear people does hold with undisputed sway, but that little commendable spirit called “self-aggrandizement” finds a place—and hence a reason to fear that within one year after the adoption of the present constitution our legislature will consist of 160 members. The number we propose is larger in proportion to the number of inhabitants than many of the state legislatures are, from which we hear no complaints of their numbers being too small. In the next place we may reasonably expect the article on banking so amended as to leave the matter in the hands of the people. For I hold that members of a convention called to amend the constitution will be morally and politically bound to amend in the precise manner indicated by the public will as made known through the ballot box independent of their own peculiar views or wishes, and certainly public sentiment cannot be mistaken on this subject, that it is in favor of the people governing themselves. In the next place we may reasonably expect the article on the rights of married women and exemption to be entirely erased from the constitution. For I find the people generally concede this to be a fit subject for legislation, and should not be incorporated into our constitution. We now reason a little upon the probable length of time it will take a convention to effect the amendments herein enumerated, with many others, which would no doubt be made, which will tend greatly to make the instrument perfect. If 125 men (laboring under many disadvantages, which another convention would not, which fact every observing mind must acknowledge) in 73 days produced the present constitution; how long will it take—say 50 men—to amend the same, in a few particulars, and

the mode particularly pointed out by the people. Not being skilled in the "double rule of three" or the "rule of five," I will guess 18 days. And now for the expense. The expenses of the late convention and the fitting up of the capitol were \$29,977.48. Well now we have another plain question in arithmetic—if the expense of 125 men for 73 days was \$29,977.48, what will be the expense of 50 men for 18 days? I will again guess and say \$2,956.68. Necessary cost of publishing 20,000 copies of the constitution in the English and 10,000 in the German and Norwegian languages, as per estimate of the editor of the Milwaukee *Sentinel and Gazette*, about \$3,111.70. For translating into the German and Norwegian languages, and for other necessary and incidental expenses, say \$741.62, making the whole expense just \$4,000, which I am satisfied is a liberal estimate. I invite the attention of adepts in the science of numbers to these guessings; they may be wrong, for I never attended a guessing school.

Now, fellow citizens, don't forget these calculations in your zeal to get into the Union, or for economy, and particularly the certain \$40,000 and the probable \$100,000, to be drawn from you in the next ten years, to be uselessly squandered under this constitution. Beware of those political demagogues, who are traversing the land, singing the siren song: adopt the Constitution and you shall have it amended just to suit you. Remember what our Savior was promised by his Satanic Majesty if he would fall down and worship him. Is it to be presumed, if the Savior had complied, that the Devil would have been as good as his word? Certainly not, for he had not the power nor disposition—but he would have conquered the Savior. And if we adopt the constitution as it is, political demagogues would have conquered us, and will laugh at our calamity, and mock when we express fears that all will not be well with our lovely Wisconsin under (to use the words of a worthy citizen of Grant) "this tyrannical, illegitimate, swindling concern," called a constitution.

Now let us compare the two modes of amending. A convention would be called for that particular purpose, and a majority vote would pass any amendment while the duties devolving upon the legislature are manifold, and it requires a two-thirds' vote of all the members elected to effect a single amendment. And it is proved by past experience that an important measure can seldom be carried in a legislative body by a two-thirds' vote. I well recollect that over three thousand of your fellow citizens petitioned your legislature at its last session to make provision for another convention in case the constitution should be rejected. How were your rights regarded,

and your wishes respected? Was it by making the provision, by two-thirds' vote? Were you not told that you were not the honest yeomanry of Wisconsin—but bankites, monopolists, women haters, despisers of the poor, designing politicians, who would be constitution makers? And that the convention was the true exponent of the wishes of the dear people? And consequently they were fully satisfied with the constitution, and hence the propriety of the course of your legislature in trampling upon your rights, by disregarding your expressed wishes? Adopt the constitution as it is, and then ask for amendments, and with how much more force will such arguments be used by the worshipers of the idol? Will it not be said in truth that the people have declared in favor of the constitution just as it is, by a direct vote? Be not deceived, fellow citizens, but divest yourselves of the last vestige of party trammels, or spirit, and judge of and decide upon the constitution according to its merits or demerits, bearing in mind, that if it is good for Democrats it is also good for Whigs and vice versa.

BUCKEYE



SELECTIONS FROM THE PRAIRIEVILLE AMERICAN  
*FREEMAN* <sup>27</sup>

## AN APPEAL FOR NEGRO SUFFRAGE

[December 22, 1846]

\* \* \*

The crisis is rapidly approaching, and all that can be done to secure for the future state of Wisconsin a constitution giving impartial rights to the whole people must be done shortly. There is no longer time for delay. Let every Liberty man awake from his apathy and to the full extent of his power plead for the cause of the oppressed colored citizen. If the constitution that has been framed shall be adopted by the people, a great and shameful wrong will be inflicted upon our neighbor—our brother—the hue of whose skin is darker than our own. Its adoption is virtually saying to him: “You are no man; you have not nor do we intend you shall have the privileges of citizenship among us. You are black—you are niggers—and we have no sympathy for you as men. Your features and habits and complexion are so different from ours that we deem your residence among us a stench and a loathing. We fling reproach upon you and will as far as in our power consign you to eternal disfranchisement, unless you depart from our borders.” Such is the language and spirit of the vote cast in favor of that constitution.

We call upon every voter in Wisconsin who would prove himself the friend of his race, who has a greater regard for humanity than for property, who esteems principle more highly than he does party, who loves liberty better than slavery, to condemn by his suffrage that inhuman, unrighteous, and proslavery article that denies to a brother man the elective franchise merely on account of his complexion.

Especially do we press this duty upon all God-fearing voters. To love your neighbor as yourselves is a duty whose obligation you have admitted. And can you for a moment doubt what you would desire of the colored man were your circumstances reversed? Were you, as he is, disfranchised, subject to taxation without representation, and an heir to all the thousand degradations that follow on the heels of such conditions; and were black men, as you are, invested

<sup>27</sup> With the edition of March 31, 1847, in conformance to an act changing the name of the town and village of Prairieville to “Waukesha” this paper becomes the *Waukesha American Freeman*.

with the power, legislative and moral, and all other necessary to elevate you to equality with themselves, would you not earnestly desire them to exercise it for your advantage? Hear then the voice of the Almighty to you: "Thou shalt love thy neighbor as thyself." "Do unto others as you would have them do unto you." Vote for the enfranchisement of all men.

M

## UNIVERSAL SUFFRAGE

[January 5, 1847]

The first Tuesday in April next is the time fixed upon by the constitutional convention for the people of Wisconsin to decide the fate of the document which is now before them. Up to that time the friends of free suffrage may have an opportunity to exert themselves with some hope of excluding from our fundamental law a provision alike disgraceful to freedom and humanity. An open field is before us. It is for us to enter in and labor, and we shall not lose our reward.

It is antislavery work. We owe duties to the colored men in Wisconsin as truly as to the colored men in Southern bondage. Should we fail to exert ourselves now, at this most favorable opportunity, our enemies might with some justice taunt us with a foreign charity, while our home sympathies are withered and stunted "like the heath of the desert." If our regard for the colored American is real it will evince itself wherever an opportunity offers—at home and abroad, in Georgia, and in Wisconsin.

The constitution proposes to deny the rights of certain of our fellow citizens, to withhold from them the right to vote, and also to render them ineligible to any office. The disadvantages that will result from such a provision will not be confined to the sphere of politics. The class that is thus degraded civilly will become in consequence degraded in other departments of action. Such a man will not be regarded with that respect and confidence which are accorded to the independent, free voter. This oppression by legislative authority in a political sphere opens the way for injustice and insult in the market place, in the social circle, and in religious bodies. It lays the foundation for an entire system of insult and wrong toward the injured class. They feel—deeply, keenly feel—the effects of such legislation. The result will not be confined to the proscribed citizens themselves—it extends to their families, to their wives and children, imbittering even those privileges that may

be left them. It creates indeed a taint in the blood that will descend from parent to child, to all future generations, while the constitution endures.

But what class of citizens is it that is to feel the scathing effects of this most unconstitutional article? What are their peculiarly obnoxious qualities? Are they the descendants of traitors, “. . . whose blood has crept through scoundrels ever since the flood?” Whose crimes demand the punishment of the race to the latest age? Are they Irishmen, who have sought refuge from starvation, bigotry, and tyranny, on our free soil? Are they Germans, whose foreign accent falls harshly on an American ear? Are they Norwegians, whose unique garb and manners are offensive to the Yankee eye? Or does the class come from some of the rigid monarchies of the old world, whose souls are so inwrought with the principles and customs of despotism that the elective franchise would be unsafe in their hands? No, no, none of these. Were their rights in these respects denied, great would be the outcry. The class that is thus injured by the constitution-makers of Wisconsin is guilty (and is likely to remain so) of not being “white,” and of not being “Indians.” Only twelve out of the one hundred and twenty-three members of that convention stood up bravely and truly for human rights when this suffrage article was adopted.

Will the voters of Wisconsin sanction this outrage upon human rights, of which their delegates are guilty? Will they, after four months' cool deliberation at their firesides, come forth at the April election and consciously trample beneath their feet the dearest right of freemen? A right secured to us by the treasure, blood, and precious lives of a struggling ancestry, aided by the exertions of the progenitors of the injured colored citizens? We shall see.

M

#### AN UNCONSTITUTIONAL CONSTITUTION

[January 25, 1847]

The Constitution (Art. XVII, Sec. 1) recognizes the fundamental truth that “all men are born equally free and independent.” This we deem both Scriptural and just—Scriptural, for inspiration declares that “God hath made of one blood all nations,” and declares one Adam to be the father of the entire human race. It is just, for if a man has not a right to himself, who has a right to him? Certainly not his neighbor, for he has as just a right to his neighbor as his neighbor can have to him. Indeed, the doctrine of the equality of human rights seems to be what our ancestors declared it—self-evident.



But now for its application. Our constitution-makers, for some misnamed reason too deep for us to fathom or too shallow for us to perceive, have marched with unhallowed feet directly across this principle and have restricted the right to vote and eligibility to office to white men (Art. IX, Sec. 1) thus practically denying the truth they theoretically asserted. They have gone farther in injustice than even the New Yorkers, who allow those colored men to vote that have property worth \$250.

In the Constitution (Art. XVII, Sec. 13) we find the doctrine asserted that "no bill of attainder shall ever be passed" and "no conviction shall work corruption of blood." This principle is clearly consonant with the idea of equality of rights at birth and should be most earnestly contended for by all except tyrants and the parasites of tyranny. That an American citizen, treading the soil once moistened by the blood of the Revolutionary patriots—soil that has trembled at the tread of Freedom's conquering hosts and quaked at the roar of her cannon—that a man born upon or adopting such a soil because forsooth his father, now in his grave, was guilty of crime shall be forever excluded from the rights of freemen—this doctrine justly received the reprobation of the convention. But in condemning this foul sentiment did they act from a conviction of the truthfulness of the principle, or were they servilely copying from other documents the letter of a doctrine the spirit and application of which they abhorred? Let us see what application they make of the principle. Who are to enjoy the elective franchise? "All white citizens of the United States." (Art. IX, Sec. 1) All white persons who make oath to their intention to become citizens. All citizen Indians—all civilized Indians not belonging to tribes. But the colored man is attainted—by the convention attainted. This same convention has declared by their action the whole race to be in a lower political condition than the children of the most loathsome drunkard or debauchee—of the greatest defaulter or state criminal, of the blood-stained assassin who justly expiated his guilt with his blood—or of the most abandoned traitor to his country. Why? Because they are not white. What a reason! Is this a crime? Is the colored man responsible at the bar of his country for not being born white? And must he atone for his complexion with such a fearful penalty as this? Perpetual "corruption of blood" and disfranchisement as the punishment of being born not white in Wisconsin—free, democratic Wisconsin! Is not this a "bill of attainder" with a far-reaching vengeance?

## SHALL WE VOTE FOR THE CONSTITUTION?

[January 27, 1847]

This is a question which should receive the candid investigation of every voter in Wisconsin and one which he must decide as soon as the April election. And in coming to a conclusion he should be guided, not by the dictum of party leaders, not by the prejudices of partisanism, but by an honest, high-minded, God-fearing patriotism. Under the conviction of his responsibility to his country, to his posterity, and to God, he should canvass the articles of the constitution now laid before him.

As we have heretofore intimated, our main objection to the constitution is on account of its denial of the right of suffrage to the colored man. There are other articles to which we might raise serious objections, and on account of which many honest Liberty men would refuse to vote for it. But waiving these, we ask attention to the article most obnoxious to us as abolitionists.

A careful examination of the article on the elective franchise shows clearly that its framers would exclude colored men, whatever may be their qualifications, from the ballot box. Now every Liberty man who deserves the name fully believes that his colored neighbor is a man—a human soul and human body; has rights—the right of property, of liberty, of self-government—that he has a right to a voice in the selection of the men who are to make the laws by which he is to be governed, by which his property is to be taxed, and its value affected in various ways. He believes the colored man has descended from the same Adam with himself—that of “one blood hath God made all nations,” including the colored man of course. He recognizes in him as true, as real, as full, and as bona fide a specimen of humanity as the human race affords. He would no sooner see the black man crushed, robbed, wronged, than he would the white man. Among the colored men, the abolitionist sees such characters as Euclid, and Cyprian, Dumas, and Touissant—as Frederick Douglass, H. H. Garnet, S. R. Ward, Alex. Crummell, Bibb, and Haynes. Multitudes of others among the colored people he is compelled to respect, admire, and love. They would be ornaments in any society and force the most reluctant to acknowledge their worth and dignity. Some of these same men may choose at a future day to take up their residence in Wisconsin, and either of them would be an honorable and valuable acquisition to our society. Shall we then vote for a constitution that denies their rights and the

rights of all men of their complexion? Will any abolitionist stain his fingers or pollute his soul by casting a vote that will acknowledge the authority of such a tyrannical instrument! God forbid!

What if a constitution were offered for our adoption which should deny the elective franchise to all those who came from Germany. Ought we as freemen to adopt it? More cogent reasons might be offered for such a denial than can be conjured from the star chamber of tyranny for the denial of the right to the blacks. The Germans are recently from a foreign state—the blacks were born on the soil; the Germans to a great extent are ignorant of our language—the blacks claim and use it as their native tongue; the Germans claim and possess a comparatively light complexion—the blacks are “black.” And is not this last the sole reason that can be adduced for denying their rights? It does not deserve the name of reason—it is mere pretense, and a pretense as shallow as the cuticle of the human body. Away with constitution-making so shallow and abominable, evincing such reckless disregard of human rights. Let not what we have said of the Germans be misunderstood. We cheerfully acknowledge their right to the elective franchise and welcome them to the privileges of American citizenship, but they must not be offended with us when we assure them that we shall extend a welcome equally cordial to the colored men who are natives of the United States.

We are free to avow our conviction that it would be inconsistent action in a Liberty man to vote for the proposed constitution—inconsistent and treacherous to the cause of freedom—inasmuch as it would be a deliberate acknowledgment of the soundness of a false principle. The constitution is to be voted on separately. If it is adopted, it will be adopted as it is. We are not forgetful of the resolution on negro suffrage that is appended to and which will be submitted at the same time with the constitution.

The vote on the constitution is to be given “Yes,” and “No.” Every vote that speaks in favor of the constitution does it without qualification and will be claimed by those in favor of it as a free and full expression of approval. The vote that may be given for negro suffrage will hardly counteract the influence of such a sanction, and thus we are made to approve by our vote what we repudiate from the depth of our souls. The constitution conflicts with our principles in regard to the elective franchise and also in some other respects. There is hardly a probability that we can reach and remedy those defects through the suffrage resolution. There is a strong probabil-



ity that the dissatisfaction with the constitution felt in all parties, if it find its proper expression at the ballot box, will secure its rejection; and then an opportunity will be afforded for a more thorough discussion all over the territory of the subjects of difference. As Liberty men we have nothing to fear, but everything to hope from such discussion.

The expense to the territory of another convention will be mentioned as a reason for sanctioning the doings of the last. But shall Liberty men sell their own, their neighbors', and their children's rights for such a pittance? Are the principles of a free government of so little value that they may be sacrificed to save a few shillings? Shame on such treachery as this!

Let the constitution be rejected as it deserves, and the rejection will open the way for something better. We shall then have more time to disseminate in every nook and corner of our beloved Wisconsin the principles of universal liberty—to urge the claims of every class—of the colored men as well as of the Germans, Irish and Norwegians. Let that foul document, stained with deliberate trampling on the rights of man on account of his complexion, be spurned by every freeman and friend of his species.

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## AN ABOLITIONIST SUBSCRIBER'S VIEWS

[February 17, 1847]

SOUTHPORT, February 10, 1847

MR. EDITOR: I propose to say a few words upon the suffrage question in addition to the many valuable articles that have already appeared in your paper. By the ninth section of the proposed constitution no colored people, but certain Indians, are allowed to vote.

I do not propose to say anything about the glaring inconsistencies of those men who have thus "framed iniquity by law" against a part of "all men" whose inalienable rights they proclaimed, or the brutal injustice of the act in a moral point of view; these and other points have been already ably presented through your paper.

The position I assume is this—that we have no legal or constitutional right to exclude any portion of the "free inhabitants" of their proportionate share of electors or representatives. The territory of Wisconsin is a part of the Northwest Territory set forth in the Ordinance of 1787, the magna charter which secured to us

many valuable rights which can not be taken from us except by "common consent," rights which were secured equally to every "free inhabitant" thereof. By the fifth article of the compact in said ordinance it is provided that "whenever any of said states shall have 60,000 free inhabitants therein such state shall be admitted by its delegate into the Congress of the United States on an equal footing with the original states in all respects whatever and shall be at liberty to form a permanent constitution and state government, provided, the constitution and government so to be formed shall be republican and in conformity to the principles contained in these articles." The demand in this case is imperative: First, that the government formed shall be republican; second, that it shall conform to the principles contained in the articles of compact. Now I deny that to be a republican government in any proper sense of the term which excludes any portion of the people from their proportionate share of representatives or electors, or that such a constitution is in conformity to said articles of compact.

What is a republican government? There is or can be but one answer to the question. It is a state in which the exercise of the sovereign power is lodged in representatives elected by the people. This is not only the dictionary but the legal American meaning of the term. It makes no difference what Greece and Rome and other states may have assumed to be republican, or what we or any other age may have called, relatively speaking, a republic; the thing itself is nevertheless a "fixed fact," a thing tangible, definable, and to be understood. When therefore the term is used in constitutions and laws, we are to give it its legitimate meaning, and for such construction we have the highest authority. The supreme court (in 12 Wheaton 332, *Ogden vs. Saunders*) said "the intention of the instrument must prevail; this intention must be collected from its words." Again in 7 Cranch, page 60—"The intention of the legislature must be searched for in the words which the legislature has employed to convey it." If then we construe the terms according to its words, it means a government where all power is lodged in representatives elected by the people—not a part of the people—not the whites or the blacks—but the whole people. It makes no difference in the principle whether every man, woman, and child votes, or whether it is done representatively by the males of each family over the age of twenty-one years; the proportionate and representative share is still preserved.

To decide then whether a government is republican, we need only to be informed whether every individual is represented in it, or, in

the language of the bill of rights attached to this constitution, whether "all power is inherent in, and all government of right originates with the people, is founded in their authority, and instituted for their peace and safety and happiness." When this principle is carried out in practice as well as in theory the government is ipso facto a republic, and so far as it deviates from this principle is antirepublican and aristocratic. The ninth section of the proposed constitution which restricts a portion of the people from their proportionate share of the electors and representatives can be seen by every unprejudiced eye to be antirepublican; nay, it strikes a fatal blow at the whole system of republican government, for if the rights of one class of men may be restricted for one reason by the majority, upon the same principle any other class may be restricted in their rights for another reason, and the violation of the principle for one man is just as fatal as for a thousand; nay, more dangerous, as resistance to it will be less, and the greater danger of its becoming a precedent. There is nor can be no safety when community suffer a recognized inalienable right of any man to be questioned, either by excluding his rights entirely, or leaving them to be dependent upon the will of the majority.

But I may be told that my position militates against the republicanism of many of the states of this Union: be it so—it does not alter the fact. A truth is none the less a truth because numbers think and practice contrary to it. The ordinance under which the people of this territory have a right to form a constitution and under which they have attempted to form one positively requires that it shall be republican, not simply in form, but in substance the thing itself; and we have no right to present any other constitution at the feet of Congress for adoption, nor have they any right to accept any other, because they are representatively a party to the compact of 1787, which cannot be altered except by "common consent"; and until the colored people give their consent to be disfranchised the highest and most solemn obligations of the parties concerned require an adherence to its principles. There is also an additional obligation on the part of Congress as the representative of the whole Union not to receive it. The fourth section of article fourth of the United States Constitution declares that "the United States shall guaranty to every state in the Union a republican form of government" and consequently ought not to receive any which is not so in fact.

I take it that something more than a "rhetorical flourish" was intended by this paragraph. The Revolutionary struggle was commenced because the representative principle was denied by the



British Parliament, while she assumed to tax us (the very case of our colored citizens in the territory, who are taxed while they are disfranchised). We are not to presume that the causes of that struggle were forgotten by the men who came up to form a constitution, fresh from its ensanguined fields. Who doubts it, let him read the contemporaneous writings of Jefferson and Madison; especially No. 39 of the *Federalist*, written by the latter while the adoption of the constitution was under discussion, the whole burden of which is to disabuse the republicanism of the constitution from the false republicanism of the Old World—of Holland, Venice, Switzerland, Poland, etc., and defining republicanism thus: "It is essential to such a government that it be derived from the great body of society, not from an inconsiderable portion of it or a favored class in it." Who doubts that the constitution meant what its words convey? And who is so blind as not to see that the neglect of Congress to fulfil this guaranty to many of the states heretofore admitted is now rocking this nation to its very center? Erase this guaranty from the constitution, and what would prevent one state from establishing a papacy, a second, monarchy, a third, autocracy, and so on to the end of the series, all coming up to the national councils with their peculiar notions of government and state-rights policy? He who should witness such a scene could say indeed that "chaos had come again." Who doubts that there was meaning in this clause? Nay, this republicanism was the very bond of the Union—hence it was guaranteed, warranted, made sure; and the whole power of the nation was given to enforce it. "The United States shall guarantee," etc. How tallies the ninth article of our constitution with this guaranty? Alas! upon whom has the mantle of our fathers fallen, that we are this day seeking to inflict upon a portion of the free inhabitants of this territory the very injuries for which our sires arose in arms to redress? Taxation without representation, degradation without crime, the usurpation of inalienable rights against law, humanity, and justice!

But let us proceed secondly to inquire whether the ninth article of our constitution is in the language of the ordinance "in conformity to the principles contained in these articles," to wit: the six articles of compact of said ordinance. These articles of compact were entered into, to use the language of the instrument itself, "for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions are erected, to fix and establish those principles as the basis of all laws, constitutions, and governments which forever hereafter shall be

formed in the said territory." To deprive a class of citizens of their political rights and thereby degrade them in the eyes of community surely is not "extending the fundamental principles of civil and religious liberty," but strikes a death blow at those very principles which are declared to be fundamental. To tax while we disfranchise surely is not "to fix and establish those principles as the basis of all laws." To have nine-tenths of the inhabitants call a convention of their own, depriving a part of the people of the right of a voice in making a constitution or any voice in electing the officers under it is not in any sense of the word doing away with the solemn obligation of said ordinance by "common consent." To fix upon a class of citizens the badge of slavery by depriving them of their political rights is not in "conformity" with the sixth article of said compact, which declares that "there shall be neither slavery nor involuntary servitude in said territory." And those who by their votes will do it only need the opportunity to add the fetters and the chains. "As sinks the colored freeman, so sinks the colored slave." Think of this, ye loud-mouthed Democracy and piebald Whiggery, as ye cast your vote to disfranchise the colored freeman. Say not again that ye are lovers of liberty and haters of tyranny, while ye are thus staying up the hands of the oppressor and doing his dirty work. Thus to act is to show yourselves degenerate sons of noble sires.

But I have not yet done with these constitution-makers—men who will stretch the parchment to its utmost tension\* and split hairs with a razor's keenness to secure the largest possible political rights to the foreigner who claims but a day's residence on our shores from the monarchies of the Old World—in the same instrument, with one fell swoop, disfranchise the colored freeman, a native of the soil, a free inhabitant, industrious, and every way capable to share in the formation and benefits of the government, privileges declared to be inherent by the first section of the bill of rights. The second article of the compact, which was to remain unaltered unless by "common consent," provides that "the inhabitants of said territory shall always be entitled to a proportionate representation of the people in the legislature." Did the five hundred colored people of the territory have their proportionate share of votes in choosing the delegates to

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\*The word "free" in the ordinance is not used as the correlative of slavery, for there was to be none in the Northwest Territory, but it is used to represent a native of the country in contradistinction to a foreigner not naturalized. Where did the convention get the power to make a voter of a foreigner on the day of his landing upon our shores?

the convention that made this bastard constitution? Or are they secured their share for the future? Did "we, the people of Wisconsin," make it by our representatives? And are "we, the whole people," secured therein our political rights? Let us bring the argument home to ourselves. Suppose one hundred white voters of this town had been by a law of the legislature prohibited from having any voice in making the constitution by our proportionate share of delegates in the convention—and suppose further that by the constitution formed we were excluded for all time to come from any voice in the laws or offices made under it. Should we not resort to the Ordinance of 1787, the Constitution of the United States, and demand before an assembled universe our rights? Blood-cemented and compact-given rights! And with what utter contempt and abhorrence should we look upon the servile tool of tyranny who would stand up to defend such a constitution, because there were some good things in it! How lost to shame and regardless of constitutional and moral obligations would we call such a man; and how mean and contemptible would we regard the subterfuge of that man who thought to quiet his conscience from this outrage by leaving the question of a man's individual and constitutional rights to be voted up or down, as the majority might see fit. In the same light that the one hundred disfranchised voters of this town would look upon the supporters of such a constitution will posterity look upon us who vote for this constitution with this iniquitous clause in it.

J. B. JILLSON

A BRIEF APPEAL TO THE CITIZENS OF WISCONSIN ON  
COLORED SUFFRAGE

[April 7, 1847]

We have felt called upon to make known more fully our views on the above subject and our reasons for them as the time hastens when the matter must be decided. But the following brief appeal is all which our circumstances will permit us to say. We come before you in behalf of our colored fellow citizens, not as a suppliant begging for mercy or grace, but as a man demanding justice in the name of impartial and holy freedom. We do not speak in their behalf as for inferiors, but as for equal brethren, children of the great and universal Father, possessing in common with us all the sublime and imperishable attributes of our great nature. We come to you with our eye on the future history of our noble territory asking, Shall justice die out from among us? Shall the



future rulers of this beautiful and rising state substitute for it a senseless, shortsighted—yea, an eyeless—expediency, and plead our example for their justification? Shall the curse of the poor and the retributions of injured justice cling to our history, like a Nesean shirt of fire? Nothing but judicial blindness, it would seem, could render us so infatuated. The new constitution, which is so soon to be presented for our adoption or rejection (God grant the latter), excludes colored persons from the pale of citizenship and from the burdens and honors (so called) of the military of the state. Yet these men are to be taxed equally with others. Thus we have as one of the fruits of "progressive Democracy" taxation without representation, a justifiable cause of war in the estimation of our fathers and an indignity that we would not dare visit upon any but a lean and oppressed minority. In this we not only manifest flagrant injustice, which is greatly heightened by unmixed and unrelieved meanness. "He that offendeth in one point is guilty of all." It is that which is common to all men which lays the foundation of those common rights of life, liberty, and the pursuit of happiness. When, therefore, the rights of one human being are infringed, the rights of universal human nature are infringed. For any one human being has in his nature all the fundamental elements of human nature and therefore the essential foundation of all human rights; hence, though an individual or a party shall recognize the rights of a given class of men (say whites) and shall trample upon the rights of another class (say blacks), that individual or party is unprincipled. They carry out the principle to the white, not from principle, but from motives of expediency, and change the state of things so that it shall be as much for their interest and as popular to go for the colored man against the white, as it now is to go for the white man against the colored, and they would at once put up the black and put down the white, clearly showing that their professed love of Democratic principles is a sham and the most barefaced hypocrisy.

It is pretended that the colored man is not capable of becoming an elector. There are colored men of this territory who can read and write well the English language, who have a handsome property, are taxpayers, are acquainted with our federal constitution and the genius of our institutions, and these men are by the proposed constitution disfranchised, while the latest importation of ignorance and degradation from the Old World, after a year's residence, is clothed with all the powers of citizenship. We complain not of this last; we rejoice in it. But it looks to us like straining at a gnat and swallowing a camel. We would have gnats strained at, but we

would not have camels swallowed. We would guard the rights of foreigners, but we would not strike down the rights of our own native-born citizens.

It is said that the colored man is ignorant and not qualified to vote. Well, just fix any standard of intelligence as a qualification of citizenship—only let the same standard be applied to the colored man and the white, and we will be content. “But the colored man is vicious.” Then adopt a standard of morals as a requisite qualification of citizenship—only let the same standard be applied to white and black, and we will not complain. It is the making distinctions on account of mere color an outward and accidental circumstance that we complain of. But the truth is, the reasons rendered by the constitutional convention for disfranchising the colored are not the real ones. It is the slave power controlling the progressive Democracy of the North which is the real but secret reason which operates upon these proslavery parties of the North, impelling them to crush the colored man. They know that their Southern masters would not tolerate them in doing justice to the colored man of the North while they wish to treat him as property at the South. Let the colored man have fair play at the North, and the South would be obliged soon to give him fair play at the South—or he would give them foul play.

Everything conspires to render it our duty to stand up for our oppressed colored brother. In him justice, the principles of the American declaration, the rights of human nature, the principles of human progress, the authority of God are cloven down. In sustaining him we sustain the cause of Christ, the principles of true progress, which are the hope of the crushed masses of earth. Let there be a grand rally then on the first Tuesday of April. Go early and stay all day and do valiantly for the right.

SELECTIONS FROM THE PRAIRIE DU CHIEN *PATRIOT*

## VIEWS OF "OLD CRAWFORD FOREVER"—No. 1

[February 23, 1847]

MESSRS. EDITORS: As the time is approaching when we shall be called upon in the exercise of our franchise to vote for or against this important instrument, it is proper for us to scan its merits and demerits, so that we may vote advisedly if we do it at all. The instrument itself is admitted by its most sanguine friends to have defects, and even great defects, but these they hope to have amended at some future day so that the instrument may at some future day become perfect. Of such hopes I have none. If it is adopted now with all its deformities, it is extremely doubtful whether the constitutional majorities requisite to an amendment can ever be obtained. I would sooner expect the sovereign people would become tired of its utter impracticability and call a convention to adopt an entirely new one.

My present object, however, is to call the attention of the people of "Old Crawford" to the glaring injustice done us by that instrument as to representative and senatorial districts. With a population of 1,444, we are tacked on to Richland County where I suppose (there being no returns) the population to be 400, making in all 1,844, to entitle us to one representative! But yet this notable instrument gives Calumet, with a population of 838, Manitowoc with a population of 629, Winnebago with 722, Sauk with 1,003, Portage with 951, and LaPointe with (supposed) 400 one representative each!

If it be said that these small counties were so districted that as much as possible each county should form a district, then I ask in the name of the seven wonders of the world why Crawford County could not have formed one by itself as well as smaller ones, Richland being tacked upon Sauk, to which it joins as well as upon Crawford? Sauk has but 1,003 souls, while Crawford has 1,444, and if Richland was joined to Sauk, both would not equal Crawford in population. Why then tack Richland upon Crawford to equalize, while the adjoining county east of us has a still less population than we have?

But there is another thing of grave importance to us. There is no direct communication from Crawford to Richland. Though



the two counties join, there is no road other than an Indian trail leading directly from one to the other. All our communications with that county must be through Grant and Iowa counties. The election returns and all other mail matter must pass through Mineral Point and Lancaster and may be two weeks on the way. The mail from Lancaster to Blue River and from Mineral Point to Muskoda goes but once a week. There is no postoffice in Richland County; their postoffice is at Muskoda; and if mail matter reaches that office one day or one hour after the mail has started then it must lie there a week and then be a week on the way to this place. But there is a road from Richland County to Sauk and direct means of communication between them. Why not then join those two counties in one district, instead of Crawford and Richland?

Another glaring absurdity in this representative districting is attaching St. Croix and Chippewa counties. This same notable instrument which does this provides, if Congress will sanction it—and it prays for that sanction—that the western boundary of the state shall come so far east of the St. Croix River as to leave all the settlement and indeed the whole county of St. Croix out of the state, which would leave Chippewa County, with a supposed population of 300, entitled to one representative. And to climax the absurdity of the whole, LaPointe County with a supposed population of 400 is entitled to one representative anyhow, while old Crawford, the second county organized in the territory, with a population of 1,444, must be attached to another county with which we have no communication whatever, not even in hunting, to be entitled to the same privilege.

But all this is a mere trifle to the way we are used up in the senatorial districting. In this we are joined in with Marquette, Columbia, Portage (up in the Wisconsin pinery), Sauk, Richland, Chippewa, St. Croix, LaPointe. This entire district contains a population of 8,974 and is entitled to one senator, while Green County with only 4,758 has the same. Waukesha County has two senators at a ratio of 6,896 people; Walworth has two senators at a ratio of 6,719; Grant has two at a ratio of 6,017; and Rock has two at a ratio of 6,202. It is admitted that in forming districts entire counties are to be preserved as much as possible. But when several counties are to be attached for that purpose, there can be no necessity or justice to extend them over half creation and running up their ratio to a higher number of people than half the other districts formed in the state.

Columbia County includes and lies east and south of Winnebago portage, and Marquette lies east and north of it. All our communication with them must be through Madison by a distance of one hundred and fifty to three hundred miles; and from their weight of population would rule, control, and use us up in the election. If Columbia and Marquette, which together have a population of 2,957, were taken off of this district, we should still have a population of 6,017, and if St. Croix is turned out of the state by the new line, we should still have 4,598—nearly equal to Green County. Now if Green County with a population of 4,758 is entitled to one senator because she could not conveniently be attached to another county, why should not Crawford have the same indulgence? In the Brown district there is a population of 10,032, which has one senator. Now if Fond du Lac was taken out of that district and joined to Marquette and Columbia, both of which join it, the three counties would have a population of 6,502, and would leave the Brown district with 6,488. This to be sure would be forming a new district and make 22 instead of 21 senators. But as this wise document does not limit the number of senators, only so as not to have more than one-third nor less than one-fourth the number of representatives, the convention could have easily made one district more, and still been with[in] the constitutional limits, and not have done such glaring injustice in the case.

It is admitted that when the country is but thinly populated a greater extent of it must be connected in order to form election districts, and it is admitted that all the counties in this district except Columbia and Marquette are the most contiguous of any others that could be joined together for this purpose. But where is the necessity of attaching Columbia and Marquette to Crawford and St. Croix while the district would have a fair ratio of population without them? Was it gerrymandering? If so who did it and for what purpose? We are all Democratic to the backbone; the convention was so, also, and that with a vengeance. What part or portion then of the district is to be neutralized by the other, when all are on one side? Or was it all done without due regard to our rights? Indeed as the matter now stands old Crawford is used up and soon to be forgotten. The heavy part of the vote in the district will be some one hundred and fifty miles east of us, of which we can have no knowledge till the papers from Madison bring the news. And as to St. Croix and LaPointe, they had about as well be attached to Michigan, Texas, or California; they would have about as much

communication, common interest, and feeling with the one as with the other.

Now the question is: Are we of Old Crawford prepared to vote for an instrument which fastens upon us forever such an unjust, unnatural, and impolitic burden as this? We might as well give up our right of franchise for senator and let Richland represent us in the lower house and annex ourselves to Minnesota. Let every voter in Old Crawford bear in mind that if he votes for the constitution as it now stands he literally votes his county into political oblivion as to senatorial representation and greatly hampers the county in its representative election.

OLD CRAWFORD FOREVER

VIEWS OF "OLD CRAWFORD FOREVER"—No. 2

[February 29, 1847] <sup>28</sup>

*Of Internal Improvements—the provisions of the constitution contrary to the established Democratic doctrine on the subject of monopolies, and the great injustice done by it to the new and sparsely settled counties.*

MESSRS. EDITORS: Article XI on page 40 of the constitution now submitted for our adoption or rejection provides as follows: viz.,

"Section 1. This state shall encourage internal improvements by individuals, associations, and corporations, but shall not carry on or be a party in carrying on any work of internal improvement, except in cases authorized by the second section of this article.

"Section 2. When grants of land or other property shall have been made to the state, especially dedicated by the grant to particular works of internal improvement, the state may carry on such particular works, and shall devote thereto the avails of such grants so dedicated thereto, but shall in no case pledge the faith or credit of the state or incur any debt or liability for such work of internal improvement."

That I may not be misunderstood, I will here say that to the last clause above quoted, prohibiting the state from pledging its faith or credit, I make no objection. My objections lie against other parts of the article which I shall notice in the sequel.

The first thing that strikes the mind in reading the above article is that "this state shall encourage internal improvements." By this we understand that it is the policy of the state and to be the

<sup>28</sup> The paper is printed with this date line. The correct date for this and the succeeding article is March 2, 1847.



policy of the state to encourage this all-important branch of business. To the correctness of this position all parties agree. The situation of our country—new and but just opening and developing its resources—the want of facilities to reach suitable markets for the surplus produce of our farms, mines, and forests, and the great advantages enjoyed by other states from such works all go to show irresistibly that internal improvement is the correct policy to be pursued by our young and thriving state. But the great question is, What kind of internal improvement do we need, or is best suited to our circumstances, and how shall this be accomplished?

It has been the acknowledged and established doctrine of the dominant party in the Union since General Jackson made war upon the United States Bank that monopolies, such as association and corporation, are dangerous to the true interests of the country and should, therefore, not only not be encouraged but should be put down.

Now what does this article of the constitution provide for? Why, in plain English, for the greatest of monopolies. Internal improvements shall be encouraged by individual associations and corporations. To illustrate. Take the acts of our last legislature incorporating two railroads, one from Sheboygan to Fond du Lac, say about forty miles long; and the other from Lake Michigan to the Mississippi, say about two hundred miles long. Now the cheapest railroad I have read of cost about \$12,000 per mile, which for two hundred miles would amount to \$2,400,000, and for forty miles \$480,000. The capital stock of these roads must be taken, if taken at all, principally by foreigners. It is not believed that \$500,000 can possibly be raised in the state for these roads. The reason is we have no surplus at all—and what we have can be more profitably invested in trade or improvements of our own—and means interest will govern such in such matters, and one for the sake of a public good will invest his money where it will be less productive than it otherwise might be. It follows, then, that foreigners—that is people of other states or other nations—will own the capital stock if it is owned at all.

Now a monopoly is the sole power of doing a thing. And the owners of these roads, if ever made, will have the sole power of conveying goods, produce, passengers, etc., on their roads. The stockholders invest their money therein to be productive of profit: and as the stockholders will and must in the nature of things have entire control of these monopolies they will in the nature of things

control them so as to make them the most profitable possible. In this case the interest of the people is not consulted; nor is it a ruling motive, but the interest of the company. The people's interest, therefore, must succumb to the interest of foreign stockholders. But if the state, when able to do without contracting debts, should make these roads, they would be under the control of the people and of course be managed for the good of the people. But as it is, the constitution before us, if adopted, provides for the creation of monopolies with capital stocks of from one-half a million to two or three millions, and that, too, in the hands and under the control principally of foreigners, who would of course seek their own interest and not that of the people any further than their own could be promoted by it.

But this article says the state "shall not carry on or be a party to carrying on any work of internal improvement, unless under certain circumstances." Now, what kinds of internal improvements are needed in a new country? Why, not only canals, railroads, but rivers and common roads. It is admitted that the state cannot at present make canals or railroads, nor should it undertake them until it can be done without incurring debts. But we must have and can have roads, and our principal rivers can and ought to be improved by the state with the means already provided, without incurring debts.

By the act of Congress of September 4, 1841, 500,000 acres of land are to be given to the state on coming into the Union, which may be applied to this object. Allowing one-tenth of this land to be sold per annum at the Congress price, it would afford \$62,000 a year for ten years to apply to roads, rivers, etc. The act of Congress by which we are authorized to become a state provided that five per cent of the net proceeds of the land sales in the state are to be applied to the same purpose. The sales of lands in Milwaukee district last year amounted to nearly \$500,000, and at Green Bay and Mineral Point, say \$200,000 more, making \$700,000. Now suppose the average annual sales would net \$500,000. At five per cent we should be entitled to \$25,000, per annum. This added to the above would give us a fund for the next ten years of \$87,500 that might and should be applied to works of internal improvement. In addition to this Congress has given the state the odd sections for three miles wide on each side of the Fox or Neenah River from the mouth to the portage, which is said to be worth some \$400,000 and is supposed to be sufficient to make the necessary improvements on that river and canal the portage. These lands may

be sold at the rate of \$20,000 per annum or more, if that much or more is expended on the work. The avails of these lands must be applied to this alone. And the constitution allows the state to make this improvement, because the lands are given expressly for that object.

But the five per cent and the 500,000 acres the constitution (page 56) seeks to divert from the object for which they are given and to apply them to schools. Now admitting the importance of schools, can schools supply the want of roads and the facilities of reaching markets with our produce? The sixteen sections granted for schools in the entire state will afford a fund of some \$3,000,000. And the constitution (page 38) provides other means for increasing this fund to probably the amount of \$1,000,000 more in the space of ten years. Now a school fund of some \$4,000,000, and to be continually increasing by escheats, forfeitures, grants, donations, etc., would seem sufficient, at least till we are furnished with roads and other means of conveying the surplus of our farms, mines, and forests to a convenient and profitable market.

In view of these things let me invite the people of Old Crawford to the wants of the country and the country north of us as to roads. A road is needed across the Wisconsin bottoms at the ferry, by which the cost of crossing that river could be reduced to one-fourth its present cost and thereby increase the trade of our place and the settlement of the country. We need a road from this place to the Wisconsin pinery and through to Green Bay. We need a road through to Richland and Sauk counties. We need a road to Black River, the Chippewa, St. Croix and to Lake Superior, and roads diverging from them to the pineries and other portions of the country. But who shall make these roads or where are the funds to come from to do it? Congress has been repeatedly petitioned for funds to make a part of them, but nothing has been granted, except indirectly in the 500,000 acres and in the five per cent fund, but even there this constitution proposes to divert to another use; and whoever votes for this instrument votes to do without roads through all the region north of us.

Now, it is well known that Congress granted these funds for roads for the purpose of facilitating the settlement of the country and the consequent sale of the public lands. And we have settled here as pioneers, subjecting ourselves to all the privations of a frontier life, in the expectation that these funds would some day extend roads through our country and not only enable us to get to market with our produce but enable others to settle by us, so that



we could have schools, churches, and other means of mental and moral culture near at hand. But the proposition made by the constitution to divert all these funds from roads to schools is only calculated to keep the public lands from selling and the country from settling, and thereby keep us from having schools for want of a sufficient number of scholars to form them, and thereby also to thwart the very object for which the funds were originally granted. Injustice is done to us who have settled here under the expectation that these funds would reach us some day. And injustice is done the people north of us who settled there under the same expectation of some day having a way opened for them to get out and in the country.

Suppose, if these funds are applied to schools instead of roads that thereby our schooling bills would be lighter: What does this avail us if there are not people enough in the country to have schools? The want of roads prevents their coming. Other parts of the state, where they have had tens of thousands of public money expended on their roads, may not see the want of roads here with us. Not a cent of public money has ever been expended north of the Wisconsin for roads, while tens of thousands have been expended east and south of it. The people there, who now have good roads at the public expense, may deem it good policy to have these funds go into their schools; but it would be glaring injustice to us to have it so.

Again, suppose by applying these funds to their originally intended use our dividend of school money should be a little less than it otherwise would be. Yet, if by having good roads our farmers, miners, and lumbermen can save twenty-five or fifty per cent on the expense of transporting their surplus produce to market, would they not be the gainers by paying the little addition to their school bills? Would they not have more means to do it with? Would they not have more neighbors to help them pay it? They certainly would.

People of Crawford and the country north and indeed of all the state, before you vote for the adoption of the constitution now before us, whether you are Democrat, Whig, or anything else, remember that if you vote for it you vote for a system of monopolies of the most dangerous kind—monopolies that will grind you and your produce who or which may travel upon their roads, and which by being in existence will prevent other roads from being made. You vote for preventing the making of internal improvements which the state could and ought to make by diverting the funds given expressly for that purpose to another use. You vote for depriving all

the north—far the greater portion of the state—of roads, of the means of settlement, and of mental and moral cultivation. You doom it to remain a wilderness and do yourselves and others the injustice of cutting off the very means for roads you looked for and expected when you settled the country.

OLD CRAWFORD FOREVER

“OLD CRAWFORD FOREVER” ANSWERED

[February 29, 1847]

MESSRS. EDITORS: Without any intention on my part of entering into a controversy as to the merits or demerits of the constitution upon which the sovereign people are soon to pass judgment, I merely ask the privilege of correcting through the medium of your paper a statement made in an anonymous communication which appeared in your last number under the imposing head of “Constitution No. 1.”<sup>29</sup>

The author of that article, after calling the attention of the people of “Old Crawford” to the manner in which our senatorial and representative districts are formed, as if well satisfied that facts fairly stated would not be sufficient to render the constitution as objectionable to the people as it is to himself, gives way to his great zeal for the public good, and in attempting to save the dear people from political extinction winds up his strictures upon the constitution with the grossest of misrepresentations, declaring by implication that the boundaries as fixed by the constitution for the different districts are forever to remain unchanged, when in truth the article on the constitution and organization of the legislature expressly provides for a census in 1848 and for a new apportionment at the first session of the legislature thereafter.

That the constitution has defects its friends and framers do not deny. That injustice has been done to the west and northwest I concede; but that your correspondent either ignorantly or willfully magnifies the molehill into a mountain and creates a tempest in a tea kettle is quite apparent. But trusting that in his future comments he will confine himself to truth, I will close by informing him of a few facts, the knowledge of which may obviate the necessity of any further ado on his part; and that is that the people are all satisfied that he can write, and that they made a great mistake in not sending him to the convention, where his forty years of ex-

<sup>29</sup> For this see “Views of ‘Old Crawford Forever’”—No. 1, p. 647.

perience would have secured to the state of Wisconsin a glorious constitution and saved the dear people of Old Crawford from the gulf of political oblivion.

YOUNG ONE

VIEWS OF "OLD CRAWFORD FOREVER"—No. 3

[March 9, 1847]

MESSRS. EDITORS: Among the objections to this instrument which lie with great weight in this part of the state are both the line fixed upon by the act of Congress and the one proposed to be substituted for it by the convention on our western border between the Mississippi River and St. Louis River. The line fixed upon by the act of Congress leaves the St. Louis River at the foot of the rapids above the Indian village and runs due south till it strikes the main branch of the St. Croix River, which it will do at or near the mouth of Snake River, and thence by the St. Croix to the Mississippi. The line proposed by the convention is to leave the St. Louis River at the same point and run to a point fifteen miles east of the head of St. Croix Lake, and thence in a due south line to the Mississippi or to Lake Pepin. By a view of Nicollet's map referred to by the act of Congress, it will be seen that this line will be very near a due north and south course the whole length of it and will cut the St. Croix at or near the mouth of Snake River and reach Lake Pepin about its middle.

The first of these lines the people of St. Croix objected to because it divided their settlement and they preferred to be together either on one side or the other. But on a careful examination of the aforesaid map it will be seen that the new line proposed will also divide their settlement and will show the Pehegano, Snake River, Yellow Lake, and several of their lumber settlements east of the line or within Wisconsin. And although it does not divide them as much as the channel of the river and lake would, yet it does not answer the purpose for which the new line is proposed.

Another objection of the people of St. Croix to the first proposed line is that they are so far from the seat of government of Wisconsin that they have been neglected in the laws, courts, etc., and think that by going into the new territory they will be nearer to headquarters and will fare better in these particulars.

Now, I feel very much disposed to favor the wishes of the people of St. Croix if by doing so we do not do them and ourselves a greater evil than we do them a good. There are very cogent reasons why



they and the whole settlement of St. Croix County should remain in this state. They will in that event, it is true, be farther from the seat of government of Wisconsin than of Minnesota. But if roads were opened in a direct line from St. Croix by Prairie LaCrosse and the Sauk Prairie to Madison, the distance would be greatly shortened—say two hundred miles instead of four hundred as they now have to travel—and these roads we may soon have if we keep our road funds. And as to laws, courts, etc., the people of St. Croix may take part of the blame, at least, upon themselves, for when it was left to them to vote for organization for judicial purposes not a vote was polled at that election in the county either for courts or for even their own county officers.

But we will leave that and them to settle their own affairs and consider the advantages both to them and to us and indeed to all the state that would accrue from running our western line of boundary from the Falls of St. Anthony to the Falls of the St. Louis River. And, first: The distance between the head of steamboat navigation on the St. Croix and on the St. Louis River is but about eighty miles. And a railroad will soon be called for to accommodate the travel and other business which must and will soon begin to pass from Lake Superior to the Mississippi at this point. The richest portion of the copper region is said by those who have explored it to be near the head of that great lake, and as soon as the Indian title to the land on its northwestern angle is extinguished thousands of miners will flock to it. These must have provisions and other supplies, which can reach them easier and cheaper from the rich valley of the Mississippi over such a railroad than from Michigan and Ohio up the Great Lakes.

Second. The great fisheries of the lake need an outlet into this great valley, by which the people here could be supplied with an agreeable, if not necessary, article of food, and thousands of our enterprising pioneers would engage in the fishery business for this very purpose.

Third. As soon as a road is made across this narrow peninsula, the traveling public from the Gulf of Mexico to St. Croix, who make their pleasure excursions or go for health to the north and east in summer seasons, would travel by this route. This route would be desirable not only for its matchless scenery, the Falls of St. Anthony, the pictured rocks on the lake, etc., but the idea of ascending the greatest river in the world to the head of its navigation, and then by half a day's ride across a beautiful country dotted with small lakes, fine prairies, and pleasant groves take shipping at the head of

the greatest chain of lakes in the world, and pass down by the richest mines in the world, eat the best fish, see the greatest falls (Niagara), and the most thoroughly cultivated country, etc., etc., has in it a charm that would bring hundreds of thousands to see and enjoy it.

Fourth. Such a road and such a state of things would be the making of St. Croix and greatly aid the other counties before it on the river. But if St. Croix goes into the new territory, it will be a great while before she will enjoy this great advantage. The state will be much more likely to make this improvement than the territory. Indeed, the territory, like our own, can never make the road. Ten years ago Lake Michigan stood in about the same relation to the Mississippi that Lake Superior now does. The Indian title had but just been extinguished, a few settlements had been formed, about the same number of vessels plied upon it as now sail the great upper lake, and soon after an attempt was made both by a company and by the territory to open a canal, a railroad, or something to connect these two great thoroughfares. But we are yet a territory, and neither road nor canal is made.

Fifth. Now if by being in the state St. Croix could obtain these great advantages, say ten years sooner than if out of it, would it not more than make amends for the inconveniences derived from being a day's ride or two farther from the seat of government? But whether St. Croix sees her true interest in this or not, Old Crawford does, and she will go might and main against the constitution, on account of this boundary as well as other things. We want this thoroughfare opened through to Lake Superior. Nature has almost brought the two greatest navigable streams in the world together—only four hours' ride at twenty or twenty-five miles per hour between them. Our state must at least foster and encourage the work, if it don't make it, and we should have the country over which the tract must lie, that we may do so.

This great boon is of too much importance to us to yield it without a struggle. We had better not be in a state for years yet to come than lose the fair and beautiful country of St. Croix and with it lose the land over which this important link of commerce and travel must eventually be laid and should soon be laid.

OLD CRAWFORD FOREVER

## VIEWS OF "OLD CRAWFORD FOREVER"—No. 4

[March 16, 1847]

## ON BANKS AND BANKING

MESSRS. EDITORS: Article X of the constitution, on page 39, is certainly a most singular affair to be found in a Democratic constitution. Banks in this state are dead, dead, dead; and whether hung by the neck till dead, or not, the sentence pronounced upon them by the public doth not say; but as they are said to have no souls, I suppose the usual prayer of the court for God to have mercy on them was not offered up in this case.

But in the name of the ninth wonder of the world, what was the use of incumbering the constitution with an article prohibiting banking? Public sentiment has already settled this question, and it is doubtful whether ten votes could be got in the state for a bank at this time, or if one should happen to be chartered, whether ten dollars could be raised in the state for its funds! Did the convention question or doubt whether the present Democratic state of public sentiment would continue to hold its unyielding sway? Did they distrust the public for the future, or did they suppose that the entire wisdom of the state was concentrated at Madison at that time and that on the dissolution of their body wisdom would die and therefore they must legislate for all time to come?

If either or all of these questions should receive an affirmative answer, the convention assumed an anti-Democratic position. For it is the settled and established doctrine of the party that progression is the order of the day and that every succeeding generation is wiser than their predecessors because they profit by the wisdom and experience of the past. To make such a fundamental law, therefore, that is never to change is not Democratic. And absolutely to curtail the rights of the people in the liberty of trading in what they please is not free trade. If any are fools enough to be cheated with their eyes wide open, let them do so, rather than curtail the liberty of others to trade in what and with whom they please.

With us in the west part of the state the circulating medium is of a metallic character—so much so that we can hardly get a draft if we wish to remit funds to a distance, and we are a "leettle" toosmart to be imposed upon by spurious paper; and we need no curtailment of our liberty to keep ourselves from being improved upon in this matter.

But if because some paper money is of no value it is good policy to curtail the right of the people to take that which is good, will not



the same policy curtail the use of gold and silver, because, forsooth, some bogus makers and venders have mixed their spurious coin with the genuine? We flattered ourselves for a while when we got rid of paper and used only the hard chink "in these diggings" that we should have nothing but the "real genuine" to circulate among us. But loud complaints are made about bogus coin nowadays. And even Uncle Sam's land officers will sometimes have the temerity and suspect the money we offer for land, by testing it with acids. But shall we be prohibited by law from receiving any coin because some that circulates is not good? No, this is not free trade. Let us have the liberty of free trade among ourselves, if we can't have it with other nations. And if we catch any fellow imposing upon us or attempting to improve upon us with spurious money, whether made of paper, rags, pewter, brass, copper, zinc, or anything else of the kind, we have laws that will punish them; and if we ain't smart enough to put the screws to them, why—then let them go.

But what is seriously objectionable in this banking article is that it prohibits the deposit of money for safe keeping with any corporation. It is true individuals might receive deposits. But as cities, towns, and villages are corporations, some men might prefer to deposit their surplus cash, or, if not surplus, what they have on hand, in the strong box of the treasurer of the city or town. But this is "prohibited" under any pretence or authority. And possibly some incorporated company might have money that is not wanted for immediate use, and some individuals would be glad to loan it for a while; but this, if the note is discontinued, is also prohibited. Or if the holder of a good man's note would wish to obtain the cash on it, and the company would prefer the note to having the cash lie on hand useless, so they can receive interest on it, this is also prohibited because it would be discounting. But individuals may receive deposits, make discounts, or buy and sell bills of exchange, and shave to the bone without violating this notable article. It seems, therefore, that the convention in their mortal hatred to corporations have either overshot the mark or committed a great oversight, or they intended to have a hog hole for the individual swindler to play off his pranks upon the confiding public.

But another thing. Our merchants and lawyers who collect debts due to eastern men, or citizens who have friends in the East, if they have the hard chink on hand and wish to remit it to the East, they would like a draft to do so. Indeed, Uncle Sam won't let such heavy matter go in the mail, and he who wishes to remit the funds must go with it himself, or send by some other, or obtain a draft. Now sup-

pose some of the numerous incorporated smelting companies (they being incorporated are corporations) have sent off their lead to New York or Boston till they have funds there which they would like to have here to pay the miner, the hands at the furnace, or the farmer for the produce consumed by the hands at their establishment. Would it not be much cheaper, easier, and safer to receive the cash here from the merchant, lawyer, or others, and give a draft, which is nothing but a bill of exchange, on their eastern funds, than to go or send 2,000 miles and fetch the chink in kegs or boxes and then let the merchant, lawyer, or others carry it back again? Everyone must know that the exchange of funds in this way is much better than to be transporting them back and forth in bulk. But this constitution forbids the corporation from receiving such funds and giving such draft because it would be "buying or selling bills of exchange." But yet, as in the above case, individuals may do it and may shave one, two, or five per cent out of it, which most men would sooner pay than be at the trouble of conveying the precious metals back and forth. So much for the fourth section.

But the sixth section is still worse, for it allows bills of foreign banks to circulate while it will allow of no banks at home. Over foreign banks we have no control. If such monsters existed at home we might reach them by our laws or by injunction when we found them rotten. But banks in other states are beyond our reach. They may send out their rag money by the thousand, only so that the bills are as high as ten dollars after 1847, and twenty dollars after 1849. This to be sure is guarding the poor, who will seldom have ten or twenty dollars at a time, but allows others to be swindled if the bills don't prove to be good. It prohibits swindling on a small scale, but leaves the gap open to have it done on a large scale.

When Old Stephen Burrows manufactured bank bills on such a large scale in the East, he was obliged to locate his establishment in Canada because within the states our laws could reach him. And it was then found to be much the safest to have such manufactories within the reach of our laws. But our wise convention has placed them at once out of reach. They have forbid their existence within the state, but allow the venders of those wares to bring them in and exchange them for our produce with perfect impunity. Consistency is a jewel which is not found in every pig's nose. Such incongruities in the constitution render it worse than useless.

But this same sixth section does more than this. It prohibits the circulation as money of any "note, bill, certificate, or other evidence of debt whatever," except of ten or twenty dollars. Now it

has been found impracticable for the general government to raise and transport specie to pay off the troops in Mexico or on the other frontiers where they are posted; and treasury notes have been substituted. But it is found still more difficult to pay off single soldiers in such notes of the size of \$500. And to remedy this evil the proposition is now under consideration at Washington for the issuing of such notes for five, ten, and twenty dollars, etc. Of two evils, it is said we should choose the less, and this is deemed a less evil than suffering our brave troops to go unpaid. But suppose such notes should reach our garrisons of five or ten dollars each and be paid to our troops. Such notes to be at par must be made receivable at the land or customhouse offices, and, if so, as a matter of course they would pass as money. And being in themselves evidences of debt they are prohibited from circulation by this constitution. Will this Democratic state thus undertake to thwart the measures of our Democratic administration, and especially when the measure grows out of the necessity for supporting the present Democratic war? It is to be hoped not. Then let every sound Democrat vote against this incongruous, heterogeneous mass called a constitution.

OLD CRAWFORD FOREVER

VIEWS OF "OLD CRAWFORD FOREVER"—No. 5

[March 23, 1847]

MESSRS. EDITORS: Among other incongruities and impracticable features of this notable instrument is that of the elective judiciary. The idea of electing our officers is democratic and has a charm in it well calculated to lead to an unprofitable opposite extreme. But the story of the negro shingle tree will often apply to such matters with great force—that is, be “so straight as to lean a leetle t’other way.”

This article, page 31, section 7, provides for the election of a circuit judge in each circuit, who shall hold his office for five years and reside in the district for which he is elected. And section 12, page 33, provides that the judge so elected shall so interchange circuits that no one of them shall hold courts more than one year in five in any circuit, except in case of vacancy, etc.

In looking at the practical operation of this system the first thing that strikes the mind is that for four years out of five we are to have a judge over us whom we did not elect. If we should elect a good judge and every other circuit should elect poor ones, we can have our good one only one year out of five. And in the meantime



we shall elect a judge for other parts of the state, while they elect judges for us. If any circuit has a boisterous politician on hand who is more trouble than profit and must have an office to pay him for bawling from the stump, why, they can just elect him for a judge, no matter whether he is qualified or not; they can well afford to bear with him for one year to get rid of him for four. And if every circuit should pursue the same policy, we should have a sweet set of judges.

But the idea of having one part of the state electing officers for another is horrible. Suppose Milwaukee should elect our sheriff, Dane our commissioners, and Brown our representatives—who would submit to it? What a buzzing we should make about the country. And wouldn't it be real fun to see an officer thus elected by another county attempt to exercise the function of his office in Old Crawford. And what better would it be in the case of a judge than a sheriff? It is true, if such should be the law of the land, we as a law-abiding people might submit to it with as good a grace as possible, but the judge would be awfully squinted at and he would be apt to feel as if he had got into the wrong box.

But the second thought that occurs to mind on viewing this new fangled system is the effect it must have upon the incumbents. "He shall reside in the circuit for which he is elected," and yet shall spend four out of five years out of that circuit. Now most if not all of our lawyers who have attained to such standing as to aspire to the bench have accumulated property, have families, and have domestic matters to attend to at home. They, in addition to this, must have considerable due them from their practice, which must be collected or be lost. But to be absent from home four years out of five or the most of the time and that, too, at an expense of board by the day—for they will hardly stay long enough in a place to board by the week—in addition to traveling expenses, the loss they will sustain in debts they cannot collect, the loss to their farms and other domestic affairs when added to their expenses will leave but little of their \$1,500 per annum for future use. Now any lawyer of sufficient legal lore and sufficient talent to command respect on the bench can make more at the bar than on the bench under such circumstances, and have the privilege and advantage of domestic comfort, of domestic profit, and raise and educate his children, if any, under his own eye besides. And for this reason it is extremely doubtful whether a lawyer who is qualified or fit for the bench would take the office; and if not, the only candidates out of whom a choice could be made would be those who have neither talents nor other qualifications to make good judges.

The next thing we notice in this article is the way the circuit to which Old Crawford belongs is districted off. We have "Iowa, Grant, Crawford, and Richland; and the counties of Chippewa, St Croix, and LaPointe shall be attached to the county of Crawford for judicial purposes." Here, again, we are tacked onto Richland and by the wording of the sentence, "Crawford and Richland," it seems that Richland is not attached to us for judicial purposes, but is made part and parcel of this county. The copulative conjunction "and" unites the two counties and makes them but one. I wonder what will come next. We are tacked upon Richland to be entitled to a representative, and now tacked upon it for courts. Is Old Crawford to be swallowed up like Pharaoh's fat kine by the lean ones? Or is the old county to be annihilated and sunk into oblivion? Richland has not as much community with Crawford as LaPointe has. All the associations of Richland are with Sauk or Iowa, and why not attach her to one of them? Why tack her on to us?

Another bad feature of this article on the judiciary is amalgamating the office of clerk of the circuit court with that of register of deeds, section 13, and then securing to the incumbent a salary of \$1,500 a year before he is required to pay anything into the county treasury. The professed object of this scheme was to get funds in the treasury to assist in paying public expenses. But the plan itself is a failure, because there are but few counties in which the fees of office in both offices will reach to \$1,500 per annum. And where they do one man can attend well and truly to all the duties of both. Besides it is not democratic to place so many offices and so much income into the hands of one man, while there are so many aspirants who need some share of the spoils.

In reference to electing judges it is to say the least of it of doubtful expediency. I go for electing all officers so long as the public good will be subserved thereby. But when the public good can be better subserved by an appointment from the governor and senate, it must be admitted to be a better way. The sheet anchor of our safety consists in an able, enlightened, and impartial judiciary. These qualities are oftener found in modest men who would never take the stump than in demagogues who are clamorous for office; and the consequence would be that, as the most noisy are most apt to be elected, we should have such for our judges. Moreover such men must favor their friends to repay them for past favors and secure future ones by a corrupt set of judges; but if they were selected for their ability by the proper appointing power they would be more likely to be independent and impartial. If the governor nomi-

nates and the senate confirms, they will feel a responsibility resting on them to fill the bench with competent men. And having a sound judiciary we have strong hope ahead for safety when life, liberty, or property is at stake. But if we have incompetent judges, the best executive and the best law makers in the world can hardly save us from the sad effects of poor courts.

One thing is certain: that is that in many things in this little world we can do what we want done better by an agent than by ourselves and especially in the learned professions. If sick, we employ a doctor to give us medicine; if we have a suit in court, we employ a council learned in the law; and if we want labor done which we have neither physical strength nor time to perform even in such a case we employ an agent. And by the same rule the governor and senate as our agents, who may be fairly considered as better qualified to select a judge than the mass of the people, can do it for us better than we can ourselves.

It is true I would not vote against the constitution merely because the judges are elective; but Old Crawford will go against it before she will have other people elect them for her or will be tacked on to neighbors with whom we have no communications or community of interest.

OLD CRAWFORD FOREVER

### A SECOND REPLY TO "OLD CRAWFORD FOREVER"

[March 30, 1847]

MESSRS. EDITORS: Permit me through the columns of your paper to reply to some objections urged against the adoption of the constitution by a correspondent of yours who has for the past few weeks been enlightening the "common people" by a series of articles explanatory of the various provisions of that instrument.

The first objection brought by the commentator is that the constitution is anti-Democratic; is not cut and framed in every particular to correspond with the long established principles of the "Democratic party." This objection is strongly urged in his first article, and in his second (to which I beg leave to call the attention of the reader) he, in the commencement—yea in the very caption—reads article XI of the constitution out of the Democratic creed. Now for a Whig, as I have reason to believe your correspondent is, to spend his breath against the constitution because it is not Democratic is ridiculous in the extreme. For a Whig who has always combated the principles of the dominant party to at once turn and



with might and main assail an instrument because it is not Democratic is surely, when taken on the whole, a fair specimen of logic termed "rigmaroll" and will no doubt convince all who have read those anonymous articles of the sincerity of the author.

But article XI is further condemned because it prohibits the state undertaking or carrying on works of internal improvement; because it places it out of the power of future legislation to bankrupt the state by following in the wake of Illinois, Michigan, and Indiana, until we as a people are ground into the very dust by a debt which we cannot pay, but which must be wiped out by disgraceful acts of repudiation.

That works of internal improvement add much to the wealth of a state all will admit; it is also clear that at this moment in many parts of our territory the inhabitants suffer great inconvenience for the want of railroads, turnpikes, etc. But I ask every candid thinking man if the lessons of experience which we can learn by examining the present condition of these states which have engaged extensively in such works should not make us pause before we adopt the same course? How many of the gigantic works of internal improvement in other states pay the interest of the money which was expended in their construction? And how many are there which have never paid the cost of survey? Works of internal improvement should be encouraged within the state and can be and should be constructed without any cost to the state. Experience proves this; and the fallacy and folly of a state engaging in such works is now generally conceded. Whenever the business of a place will justify the construction of such works, capitalists will construct them, and those who travel on them or have their produce conveyed over them will not be obliged to pay any more for fare or freight than they would if the same works had been built by the state at the public expense.

Now let us pass to the last objection raised by this constitutional critic in his article No. 2, which is the provision for the support and maintenance of common schools. The constitution provides for a permanent and liberal school fund to be raised from the sales of the five hundred thousand acres of land donated by the United States and the five per cent on the sales made by the general government within our state. I assume the position that one citizen is as fairly entitled to the benefits of these donations from the United States as another; that they should be so managed as to benefit all and all equally if possible. Will this object be attained by the legislature appropriating them to works of internal improvement? Would it be

possible for the legislature to manage those funds so as to benefit by such works one-tenth part of the inhabitants? They might build a railroad from Milwaukee to Potosi or to any other point on the river. This would exhaust the whole amount and would immensely enhance the value of many individuals' estates; others it would profit in some extent, while some would be injured and thousands would not be affected in any way. But suppose that the eastern and northern counties should expend it all for themselves in building roads, etc. They certainly would have the power to do so, and as your correspondent complains that they have heretofore appropriated liberally for their own wants and entirely neglected the interests of the sparsely populated counties, have we not much reason to fear that the same course would in future be pursued? And that all appropriations for works of internal improvement would be lavished on the eastern and southeastern portions of our state? Now by pursuing the plan of the constitution, by converting those gifts into a permanent school fund, we injure no one and benefit in a great degree every man, woman, and child who now resides or ever will reside within our state.

That the constitution is perfect its friends and supporters do not pretend, but that article XI, which your correspondent condemns because it is "anti-Democratic," is a most excellent and equitable one I am confident all unprejudiced minds will admit. And here, in conclusion, permit me to express my sincere desire that every voter before depositing his vote in the ballot box will carefully examine the whole document for himself, remembering that by rejecting it we shall not be sure of obtaining a better, but that we shall be sure of being kept out of the Union two or three years at least, shall lose not less than \$100,000 on the sales of public lands, to which may be safely added \$20,000 more to defray the expenses of another convention.

YOUNG ONE

VIEWS OF "OLD CRAWFORD FOREVER"—No. 6

[March 30, 1847]

MESSRS. EDITORS: Article XIV, on page 44, on the rights of married women and on exemptions from forced sale, has already met with almost universal reprobation by the people of this state, and it would almost seem useless to occupy your columns in exposing its deformities. But so perfectly outrageous and impolitic are its provisions that one can scarcely let it pass without a mark

of his disapprobation. The well-timed and forcible arguments of Marshall M. Strong against its provisions should be read by every citizen before he votes pro or con upon the constitution, if he has the least lingering idea of voting for such an instrument, the adoption of which would fix and fasten upon our state a blighting, withering—nay, damning—stain which would turn the honest emigrant from our borders, drive honest and honorable citizens from among us, and leave our state to be the resort and to become the receptacle of rogues, swindlers, scapegoats, scapegallows, and all the refuse of Pandemonium to congregate and settle in.

First, all the "property, real or personal," a woman may have before her marriage and all she may accumulate afterwards "by gift, devise, descent, or otherwise than from her husband shall be her separate property." Now under the provisions of the article everything a man owns before or after marriage can easily find its way into the possession of his wife, and though he justly owes his creditors to the full amount of its value, nay, perhaps the very debts he owes were contracted to accumulate this very property, and yet when safely "registered" as the separate property of the wife, though the devil may be sure of the dishonest man's soul on account of the fraud, yet creditor or the sheriff for him can reach nothing out of which to pay the debt.

If a man by hook or crook has got real or personal property in his hands before his marriage and is justly in debt for every cent of it, yet upon determining to marry and before the marriage takes place he can easily convey it all to the woman he intends to marry, either directly or through a third person, when it becomes the wife's separate property. And after marriage all that he can get into his hands of money or personal property he can convey to his friend, who will give it to his wife, when it becomes her personal property. She, having a separate property in all she possesses, can take the money from the husband's desk and purchase personal or real estate in her own name, and what creditor can prove that the money she paid for it ever belonged to her husband? In this way everything can easily become the wife's, and the husband's creditors may whistle for their pay.

But shavers some times shave so closely as to clip their own fingers, and in plotting to defraud their creditors cut off their own benefits. This might be the case in this matter. Women sometimes die, and this rogue's wife might die. At present the husband enjoys the use of the deceased wife's property during his natural life; this privilege grows out of the unity or legal oneness of husband and wife both



under the law of God and the common and statute law of the land. But if husband and wife are separated in property, the death of the latter cuts the former off from the use of the wife's estate, and if she leave no children, her property must go to her next of kin, and if she leave children, it goes directly to them, leaving the husband without a cent of all that he has fraudulently placed in the separate hands of his wife. I once heard it said that the devil sometimes shoots breech foremost and receives the load in his own breast, and it may work so in this matter.

Before men vote for this fraud-covering article of the constitution, and with a view, too, to secure to themselves good homes and plenty to eat and wear, let them reflect that possibly they may miss their object after all, and having sold themselves to the devil by their fraud, and their wife having done so by being participant in the crime, if his Satanic Majesty should be permitted to foreclose his mortgage on the wife, the husband would be left poor and penniless. The sailor, while looking out for breakers on one hand, looks which way the wind blows on the other.

But the article in question has but half done its work. The practical effect of it is to change the relation of husband and wife as to property; instead of his being the head and she assuming his name, she should be the head and he should assume her name. And to complete the change they should be required to exchange clothing, and change sex, and then change places in the legislature, on the bench, in the field, and indeed in everything, and everywhere else.

The second section of the article, exempting forty acres or one thousand dollars worth of property from execution and forced sales, is, though abominable, measurably harmless in itself compared to the first because the wife by the ways and means above hinted at may accumulate ten times or ten thousand times as much as the thousand dollars exempted from sale, which none of the man's creditors can reach. But either or both together are calculated to injure both the poor and the rich, but the poor the most. They strike a deadly blow at all credit, without which the poor is often doomed to suffer from the want of the necessaries of life. The farmer may have valuable crops on the ground, and may need a credit to obtain means to harvest them. But no one dare trust him on the strength of his crops. The miner may be raising large lots of mineral, the lumberman may have thousands of lumber on hand, but neither may be able to get their property to market without a credit. But no prudent man dare trust them. The merchant

goes east to purchase goods, but the wholesale dealer knows the law of Wisconsin and dare not trust the merchant because the merchant, who perhaps credits no one over a thousand dollars, cannot collect his debts under that amount; and if he credits any man over that amount, it is only the amount over a thousand that he can collect; and if the wife has all the property over a thousand dollars in her separate name, then nothing can be collected by law. The merchant, therefore, can get no credit and he cannot of course credit the farmer and the mechanic, laborer, or miner, and the whole business of the country must be brought up all standing like a steamboat on a snag or a sand bar.

Again, the farmer may have produce to spare; his poor neighbor may want bread for his famishing children to eat and offer to work for it. But, says the farmer, "You must work first, because if any accident should happen that you fail to do the work what security have I that I shall get my pay? My hired men, by whose labor this produce was raised, want their pay and I have no means of paying them but from the sale of the produce they have raised. If you do the work in their stead, it saves so much to pay them for; but if not, I must have the cash to pay them with." But shall the poor man's children starve till he can work long enough to pay for it? This must be the case if the credit system is abolished. It is of no use to call such a farmer by hard names. He may be honest; but he owes as much as his produce can pay, which he intends to do. But if he credits his produce to others of whom he is not certain of obtaining his pay does he act in good faith to his creditor? Certainly not.

Again, a man owns forty acres of land with good buildings, etc., and he wishes to cultivate it. His wife also has one hundred acres in a good state of improvement. He cannot do all the necessary work himself; his wife has not yet been metamorphosed into a man and cannot assist him in the field, and if she could she is needed more in the house. But what shall he do? He has not the money in hand to pay for labor in advance. He offers to hire hands and pay them out of the avails of the produce to be raised. And there may be plenty of hands idle who would be glad to work. But here they are. The laborer dare not trust the farmer till crops are in market, because all the farmer has is exempt from sale to pay his debts. And if he had the money to pay in advance, still that would be crediting the laborer. But credit is abolished; and the consequence is the farm must lie idle, the laborer must lie idle, and both must

starve like fools or they must violate the spirit and intent of this abominable article and continue to trust each other.

The practical operation of this article is to make the very rich richer and the poor poorer. For the rich may be able to hire hands and pay them every day as soon as they do their work; but he has it in his power to screw down the poor laborer to half his common wages, which the poor fellow would sooner take than beg or steal. This is not democratic. It is intolerable, and who that is worthy of the name of an American, native or adopted, can vote for a constitution with such an article in it? Not "Old Crawford," anyhow.



SELECTIONS FROM THE PLATTEVILLE *INDEPENDENT AMERICAN*

## VIEWS OF "A FARMER OF GRANT"—No. 1

[January 15, 1847]

The constitution is to the counties, townships, officers, and people what articles of agreement are to a copartnership. It is a limitation and definition of their rights and duties as agreed on between themselves. Article. I. Preamble. The preamble is to the constitution what the preface is to the book. It is a kind of index or declaration of what the constitution is expected to do, or rather of the use for which it is intended, and ought to convey the meaning very clearly and in as few words as possible. Were I in a situation where the duty devolved on me to write a preamble for a constitution for Wisconsin, I would write it thus:

"We, the people of Wisconsin, in order to establish justice, insure domestic tranquility, and promote the happiness of the people, do ordain and establish this constitution for the state of Wisconsin."

This should be the polar star to steer by in the formation of every future article. In the preamble to the constitution of Wisconsin the wheat is so lost among the chaff that a plain man can hardly find it.

Article. II. This article should be the bill of rights, which is a mere declaration of the people of Wisconsin of what they have a right to do and what no person has a right to interrupt them in doing. Like the first, great care should be taken that the future articles should not conflict with it. I would write it thus:

"Every man has a right to life and a spot of earth to live upon and when life ceases to a decent burial. He has a right to a useful education and in case of sickness, accident, or old age to a support without being branded as a pauper. He has a right to the enjoyment of all his personal faculties and to be relieved from all his grievances, provided he does not trespass on the rights of others thereby. He has a right to the productions of his labor, except a fair proportion for the support of infancy, education, sickness, and old age. He has a right to be relieved from any difficulty, provided no person is unjustly injured thereby, and no man or woman has a right to keep him in perpetual bondage or torment. The people have a right to see that each individual produces some-

thing equal to what he consumes, and to banish malefactors or pronounce them outlaws. They have no right to take away life, for they cannot give it."

I have heard it disputed that man has a right to be taxed to support infancy or education; but I hold it to be just, as he was once in infancy, needed education, and liable to sickness and old age. It has been well argued in the convention that the law has a right to take away life, but I view that more as a matter of vengeance than a preventive of crime. It would be a much better preventive to leave the criminal in the hands of the people of the township and subject only to branding and banishment.

The bill of rights in the constitution is out of place and out of character. It has many good things in it, poorly expressed, but most of them ought to have been placed under the head of legislative, judicial, and other powers. Take section 18 [20] as an example; It says, "The military shall be kept under strict subordination to the civil power." The reader can examine the balance for himself, and I think he will find that most of the sections are not more apropos to a declaration of rights than the twentieth chapter of Exodus, from verse 3 to 17 inclusive. The bill of rights is to the constitution what a line is to a mason or bricklayer—a guide to keep his work straight, and it would look very awkward to see him put up his line after he had his course finished.

Article II as it is placed in the new constitution relates principally to boundaries. With regard to this subject I would say that in my view the state should be as small as possible not to make the expense of state government too burdensome, that we might have as little conflict of interest as possible. I am aware that there are opinions favorable to a large boundary, but these opinions are liable to the objections that could have been urged against the old federal doctrine, among which was a powerful executive with large patronage, "a coach and six bobtailed horses," etc., etc. If the republican doctrine would prevail, that is to say, if it is to be merely a union of the counties within its limits, and these to be of not less dimensions than nine hundred square miles, and in the practical use of self-government, the principal objection I would then raise to a very large state would be the loss of weight in the Senate of the United States. I have heard some speak of commercial advantages. There is no such thing in a state. One of the valuable beauties of our system is an equal enjoyment of the commercial advantages of the whole Union.

Article III ought to be a bill of public duties. This is a new idea. I have not seen it in any constitution, book, or paper, and have reflected very little on the subject myself; therefore at present I forbear drawing out a bill of public duties, as it would be less perfect than it could be done on more mature reflection.

Article III in the constitution I shall not notice, except the last clause of the last section, which says: "and in no case shall non-residents be taxed higher than residents." To this I would offer the following amendment: *Provided*, That such nonresident be a citizen and resident of the United States. The necessity of this amendment is found in the fact that many wealthy Europeans own property to a large amount in the eastern cities and draw immense sums for rent and act the absolute landlord to the very letter; besides, there are wealthy foreigners who have speculated largely in land in Wisconsin.

A FARMER OF GRANT

VIEWS OF "A FARMER OF GRANT"—No. 2

[January 22, 1847]

Article IV. This article relates to the executive, but the powers and duties of the other departments are so mixed up with it, and, again, there are powers and duties of the executive mixed up through the other departments, so that a plain blunt man can hardly understand them. This is perhaps the reason that such great talent is required in the man who would fill the office. Had I been drawing out this article, I would have made it something after this fashion:

"Article IV. There shall be a governor, lieutenant governor, a secretary of state, a treasurer, and an attorney-general. There shall be a house of representatives, composed of not less than sixty nor more than one hundred and twenty members, and a senate, composed of not more than one-third nor less than one-fourth the number of the house of representatives, the two together to be styled the legislature of Wisconsin. There shall be a supreme court with five supreme judges."

The functions of this office are in some measure creative. Another article should grant powers, and the powers not granted should remain with the counties and the people. That is to say: The several counties should have "such power of local legislation and administration" as would "establish justice and insure domestic tranquility." The article on powers would commence thus: "All power is in the people." It would then go on to grant to each depart-



ment what was necessary, and as a matter of course all not granted would remain where it was.

Articles V, VI, and VII are in a great measure covered by what would come under the heads of powers, duties, and elections, and are generally very good, but would be much better and easier understood if separated under these heads, and each kept distinct.

Article VIII. The Judiciary. I am like Davy Crocket: "If I know what the judiciary means I wish I may be shot." It is so muffled up in a mantle of dignity acquired by hereditary rights from the crown of England, over that a large dark cloak of mystery, that we can't get a fair view of it so as really to ascertain what it really is. Then the terms of awe and respect with which it is guarded—the court—if I mistake not, this is the very home of the king himself. The supreme court! How awful and majestic the term!

A friend a few days ago assured me that if I had once got familiar with these terms so as to get rid of the fright, I might draw near enough to get a peep under the cloak and the mantle, too, and that I would discover that this awful and mysterious thing called the supreme court was nothing more than three American citizens, chosen on the plan laid down by Washington in his will: "men known for their probity and good understanding" chosen to decided disputes between other citizens, and designated "supreme" because it is the "highest and most excellent" plan ever invented for coming at justice. "It is," said he, "the very system you recommended about a year ago, and which you called arbitration, and if you could only have borrowed the mantle and the cloak to have covered it up with, and instead of hinting that it was the ancient mode of trial in the time of Alfred the Great called it an invention, you might have got a patent right for it that would have made you rich during your life."

My friend continued, "Notwithstanding that, this is the highest and most excellent system of coming at justice. Still, many of the supreme beings who exercise the functions of this supreme court got so amused with playing under the shade of the cloak and so bewildered with the splendor of the mantle that their decisions were sometimes put off for six, ten, fifteen, and one case that I know of was put off for forty years." "This is what would have made your patent valuable," said he.

"And the very reason," said I, "that I did not wish to borrow either the mantle or the cloak."

My learned friend continued, "For the last two or three hundred years justice has not been taken into consideration in any of the courts but one, the court of equity, all the others deciding or pre-

tending to decide 'conformably to the law.' But law, like the art of embalming, is forever lost, as was supposed, through a hole in the pocket of the dark cloak. Some think it is still concealed between the lining and the outside. We have in this country between thirty and sixty thousand of the best learned men in the nation, including also the best talents of the country, who have made the law their particular study and live by expounding it. Many of them have not only lived, but made fortunes by it; and yet, strange as it may appear, not one of them nor the whole of them together can tell what it is. What they now call law is a jumble of nonsense occupying more than two hundred thousand quarto pages of fine print, composed mostly of opinions and commentaries. The conflicts in those opinions are nearly if not quite as numerous as the pages on which they are printed."

Should I obtain another interview with my learned friend, I will again resume the subject of the judiciary and communicate whatever information I may obtain.

A FARMER OF GRANT

VIEWS OF "A FARMER OF GRANT"—No. 3

[January 29, 1847]

I have not been able to get an interview with my learned friend; therefore I must go on my own hook. I would propose as an amendment to the judicial system that this "supreme court," this "highest. most excellent" (Walker) system of adjusting misunderstandings among neighbors be established in every township in the state. The judges "to be chosen for their probity and good understanding, one by each litigant, and a third by these two, and the decision of these three to be as binding as a decision of the Supreme Court of the United States" (Washington); to hold their offices during the trial for which they were elected. In this case neither the cloak nor the mantle would be needed, and one or both might be sold to the Church for a large amount. I know she needs the cloak, her old one being perfectly worn out and so thin that Bishop Onderdonk and many other of the Church dignitaries could hardly cover their nakedness with it.

It was once a splendid garment and fit to protect the wearer from all kinds of storms. It was four double, and as Ezekiel would say, "warm." It would have been good until this day, had it not been for one of the dignitaries wanting to wear it before the others thought his turn had come. He caught hold of it on the in-

side a little below the shoulders; the others caught the outside, and it parted. The usurper got a full cloak for himself, only it had to be turned, and it had no hood, having parted just where that part joins the body. To remedy this defect, he took it to the King of England, Henry VIII, who by the assistance of his girls had a new hood made out of an old undergarment of his wife, that had hung in the hall for many years. Since then it has got a great deal of rough usage. Some think that it got damaged by the salt water in crossing the Atlantic. My own opinion is that it is fairly worn out for there has been so many genteel loafers who had scarcely any decent clothing, when they wanted to push themselves into "good society," would just throw on the black cloak, until it is fairly used up. I have made this digression to show where a market is likely to be found for the cloak provided we can spare it.

I believe there can be less objections raised against the mode here laid down of appointing these supreme judges in the township courts than any that has been proposed. The plaintiff would choose one with friendship enough to amount to at least a good wish; with honesty enough not to betray him; and with good understanding, that he might not be outwitted. The defendant would have the same privilege and of course would exercise it in the same way. So far they would be perfectly equal. These two judges, thus chosen, would appoint a third who would be disinterested to both. Here, if anywhere, might the judges be expected to be clear of "any voice, save that voice in which God speaks in the consciences of all their own deep and solemn convictions of right and truth." If anything could produce peace and happiness in community, it would be to have misunderstanding and disputes finally and forever quashed on their first appearance and with as little trouble and cost as possible. Neighborhood disputes, like fire in a city, take hold on everything they come in contact with. What would we think of the city councils of New York if they were to pass an ordinance allowing each member of the fire companies \$50 for every fire that would occur in the city? Would we not expect to hear of plenty of fires in New York? We would; and yet we make it the interest of a numerous class to profit by the fires of discord in society. If to establish domestic tranquility be the object of the constitution, it ought to establish a supreme court which would have that tendency.

The greatest hoax of all court matters is the carrying suits from one court to another. If, for instance, the circuit court knows how to decide according to law and justice and can be relied on for integrity, why carry a case from it to another? If not, why allow a



case to go to it at all? Have the supreme judges the privilege of any law or book that is denied the judges of the lower courts? Or is there any act of inspiration that makes the same individual more wise or more honest than when he presided below? If there is, why not take it to the place of inspiration at first? No, the thing is the very quintessence of humbuggery, to swindle fools, sometimes honest fools, out of their money.

In the ancient courts in England the lower courts decided the lower class of cases for the lower class of people, and the higher courts decided the higher cases for the higher class of people. When the cloak and the mantle were both new and the same individual officiated both as priest and lawyer, then all was mysteriously concealed from the vulgar multitude, and even religion itself as well as law and justice got corrupted. In the former there has been, in the latter there must be, a reformation.

A FARMER OF GRANT

VIEWS OF "A FARMER OF GRANT"—No. 4

[February 12, 1847]

Article IX. This article is more liberal in its provisions than most constitutions on the subject of elective franchise. This is not unbecoming a people of a new country, where nearly every voter is an emigrant from somewhere. It is known that there are opinions adverse to the extension of the elective franchise; but it does seem that these opinions are based more on selfishness than to promote the public good. John Randolph said before he would allow them (those who have no property) to vote to tax his property he would unsheath the sword and throw away the scabbard! In the New York convention Governor Bouck proposed to prohibit all who could not read and write. Others would prohibit those who had committed the unpardonable crime of being born in another country, without taking into consideration the circumstances in which they had been placed at the time, which urged them to the act. In some countries the right to exercise the elective franchise depends on the religious creed. The proscription of all these classes with some others that might be added would contribute greatly to the comfort of good society; but to human rights and the happiness of man it would be very unfavorable.

Article X. On Education, etc. This is a valuable article, though very bulky and awkwardly expressed. It must have been intended to protect one of the individual rights that has heretofore

been neglected—that right to an education. The reason that all should get an education is that all need it. Society has a right to see that there are no drones in the hive—that each individual produces sufficient for his own support. In all former time the poor have educated the rich, and more than that, they have fed and clothed them; they have built their houses, plowed their fields, dug their gardens, made their coaches, cleaned their horses, boots, streets, rooms, and furniture. In a word, those who work do everything that is done for those who go idle. The rich live on their vested rights; the poor are deprived of their natural ones. Section 4 provides that “common schools shall be equally free to all (the word ‘equal’ should have been omitted) and no sectarian instruction shall be used or permitted.” This is an improvement on all other constitutions. There should be nothing taught to the pupil but what is understood by the teacher or useful in life. The time, cost, and trouble spent in teaching the science of sectarianism heretofore, in future ought to be applied in teaching the use of machinery and the art of manufacturing. Engineering is now taught in one of the academies of St. Louis—not what is called civil engineering, but the use of the steam engine. By the use of the sixteenth section, with very little machinery, orphan children and others would be able to pay their own expenses from four years of age to twenty-one and acquire the very best kind of education. They would need a little assistance at first until the first apprentices had got pretty well forward.

It appears to me that this article would have read better thus:

“Article X, section 1. There shall be free schools for all the children of this state.

“Section 2. Each county shall be laid off into districts by the local government or county commissioners of the county in the most convenient manner for the inhabitants, so that all may have a school.

“Section 3. Each county shall lay an annual tax on all taxable property, for school purposes, equal at least to six dollars for each child in the county from five to seventeen years of age.

“Section 4. The school fund shall be distributed by the local government or county commissioners amongst the several districts, in a just proportion to the number of children in each district from five to seventeen years of age. But if any district should fail to have a school, then, and in that case, its portion of the fund shall remain in the county treasury until said district shall have expended

it for school purposes, when it shall be paid to the order of such district.

“Section 5. No sectarian instruction shall be used or permitted in any common school in this state.”

It is perfectly unnecessary to say “there shall be a state fund for the support of common schools,” without stating how that fund shall be raised. The state has no honest way of raising funds only by taxing the people of the state. The United States have no honest means of raising funds only by taxing the people of the United States in some shape or other. For this reason the tax should be raised by the county. The nearer the taxing power is to the people, and the more direct the tax, the better, and the better the people understand what they pay, and what they pay it for.

A FARMER OF GRANT

VIEWS OF “A FARMER OF GRANT”—No. 5

[February 19, 1847]

CONSTITUTION OF WISCONSIN

Article XI. On Banks and Banking. To produce arguments at this late day to prove that banking is an evil and ought to be stopped looks to me like throwing water on a drowned mouse. Those who do not know that much must be possessed of willful or invincible ignorance.

To the sixth section many objections have been raised. It seems to have been assumed that, though we have a right to prevent the people of our own state from robbing or swindling us, that those of other states may do so with impunity. The sixth section is about the best one in the article, but it seems to me that the last part of it ought to have been amended thus: “issued without (or within) this state,” and all the balance that comes after ought to have been stricken out. I can see no just cause of retaining the larger evil when we throw off the lesser. If it be wrong to allow notes of five dollars to circulate as money, it is doubly wrong to admit tens and quadruply wrong to admit twenties. This was, no doubt, a concession to the men of vested rights. I would admonish such men not to look for too much, that they may get something. There is an opinion abroad, and fast gaining ground, that vested rights are no rights at all. The antirenters of New York made a bold stand on this opinion. The legislature of Wisconsin made a stand but little less bold in taxing land only and exempting all other property, for the avowed purpose of rendering useless the vested



rights of those whom they considered speculators. That is to say, a majority of the members of the legislature showed it to be their opinion that if a bank president, cashier, or director Swartwouted with the whole cash and credit of the bank in his pocket and invested it in land in Wisconsin, that they had any just and natural right to it, and that they would force them to abandon their vested rights by heavy taxes, and there was no distinction made between the speculator and the resident. The antient spirit is as strong in the lead mines as on the Van Rensselaer estate, though not so well organized. If the vested rights to real estate can reasonably be questioned, then the vested right to swindle by bank paper should never be vindicated in any manner whatever. For this reason I esteem the sixth section good, and would think it better if it went the whole figure.

Article XIII. This article guards against state debt, an evil that many of the states have severely suffered by, and is a valuable item in the constitution.

Article XV. This article is convenient to both rogues and honest men. He who formerly had to have his property sold by the sheriff and bought in by a friend under this article can have it conveyed to his wife by the assistance of a third person, and then it will be under control of the family as though the creditor had not been outwitted. But to prohibit the husband from making the deed direct was only uselessly putting him to the trouble of calling in the aid of a third person.

The exemption of "the homestead of the family" is cruelty to the gentlemen of the bar. At least half their business is in collecting debts under \$1,000, and to rob them of half their living at one lick was rather too harsh. No wonder they made such a cry about the ruin of credit and the loss it would be to men of small capital that they could not get credited out of house and home.

Article XVII. Bill of Rights. This article has everything in it. Section 7 says: "No law shall be passed granting any divorce otherwise than by due judicial proceedings." It would have been more wise and humane to have said: "No married persons shall be compelled to live together after it is fully ascertained that they cannot do so without being wretchedly unhappy." In this country divorces are very common, and I have yet to hear of the first one that was injurious to either society at large or the parties concerned. There are more suicides and murders grow out of unhappy marriages and for want of a facility of divorce than from any other cause in this community. There is a law in nature to regulate marriage, and the law of the land should never conflict with it.

Taking the constitution altogether I think it the best of any of the American constitutions, notwithstanding its numerous faults. It prohibits lotteries and banks, two of the most effectual modes of swindling that have ever been practiced on man; it guards against state debt, a measure that has ruined Illinois and several other states; it guards against corruption by low salaries and against executive patronage, by the election of the judiciary and the officers of state. It goes further with regard to liberty of conscience than any other constitution and is behind none on the subject of education. On elective franchise it is very liberal and favors men rather than money; it makes as strong a blow at the trickery of law as is prudent to make at one offer by allowing every man to plead his own case or to get his next friend to do it and by the exemption of the homestead. For these and its other good qualities I hope it will receive the vote of the people. The convention was composed of one hundred and twenty-five members, twenty-six of whom were lawyers; and of the twenty-six, nineteen were heads of committees. If we are to have a new convention, it will consist of fifty-two members. If twenty-six of these should be lawyers—which is not unlikely, as many of them have had the highest vote—in that case they will have their own way. Then let no man expect to see as good a constitution as this, provided this one is rejected.

A FARMER OF GRANT

SELECTIONS FROM THE FOND DU LAC *WHIG*

## GATHERING OF THE PEOPLE

[March 18, 1847]

On Friday evening last, pursuant to notice given the afternoon previous, the citizens of Fond du Lac and vicinity assembled at the courthouse to hear the views of ex-Governor Tallmadge upon the constitution. The meeting was organized by electing as chairman, Plinn Wright, and secretary, Moses S. Gibson.

The Chair announced the object of the meeting to the house and called upon Governor Tallmadge, who with the dignity of a senator took the stand and commenced his address by remarking that he appeared there by invitation. The Governor then went on to state he would endeavor to show that popular opinion was against the adoption of the constitution and that popular opinion was not correctly presented by the Democratic journals. In proof of his first position he stated that he had traveled considerably in the territory and had found very few persons who were in favor of adopting the constitution; that he had traveled in company with a gentleman to Milwaukee, and had spent three different nights at as many different places, and had made particular observation as to popular opinion, and he had not found the first man who was in favor of adopting the constitution. That he had made a second trip on the same route and had found but one person who was willing to vote for the constitution; that he went for it because of time and expense in getting into the Union; and after he had explained to him his views, this gentleman also concluded he would vote against it—this made the opinion unanimous. He had talked to men on the route who were leading Democrats, and they had unhesitatingly expressed their dissent upon the constitution and further stated that the Democrats of their neighborhood were of the same opinion.

Governor Tallmadge then took up his second position: that popular opinion was not correctly presented by the Democratic journals. He went on to cite the public meetings among the Democrats opposed to the adoption of the constitution, and read from the newspapers the accounts of the meetings at Racine, Janesville, Pike, etc., and also letters which he had received from prominent Democrats, giving the opinion of delegates to the convention as to popular feeling in their respective communities and the chances of



adopting the constitution, which was most convincing that the popular voice was against the constitution—while the Democratic journals were giving only one side of the question and that, too, in favor of it. Upon this point Governor Tallmadge was precise and clear, and no one could deny but that his second position was clearly proved. Governor Tallmadge then passed to the consideration of the constitution itself.

He was opposed to its adoption, because in the first place the single district system was not inserted. By it the candidates were brought home to the personal knowledge of the people. The Governor then went on to show the great importance of this provision by a variety of reasoning which seemed acceptable to the audience. We cannot write as we do, without notes, and give the entire speech. We quote from memory and we have not room to go into detail.

Next the Governor passed to the article on exemption and the rights of married women. His arguments upon these questions went to show the diversity of interests that would ensue under such laws and cited those countries where they existed—France and Louisiana for example. He said that it would lead to the debasement of women, that it would induce those very divisions and contentions which exist in the countries cited, where married women are frequently found carrying on business and trade for themselves—found in partnership with others, and found, too, in court suing and being sued by their own husbands.

Next the Governor passed to the great subject of the currency, the article on banks and banking. He said that his first position would be to prove that this article was not Democratic—that there had been introduced into the Democratic party of this territory new notions and new questions which the party did not hold in the Union or in the several states. During the sitting of the convention he was in New York, and the great sum of the reported proceedings of our convention related to the article on banking—that in traveling through the whole state he did not find a man who was in favor of it—that everybody held up both hands in perfect amazement that it should be thought for a moment of incorporating such a provision in our constitution. Here the speaker, with a gesture peculiar to himself, threw up both hands and with wonderful grace stood, the perfect picture of astonishment. It had its effect, and the auditory seemed to awake as from a trance. We were a moment before in a dream of perfect security—all in the arms of the Democratic party—but the expression, the gesture, the tone awak-

ened us and we were startled to find that we had progressed far beyond the landmarks of the great family abroad. He said to adopt this article and bring us down to a specie currency would reduce the value of property and be the ruin of debtors. That free trade was well enough provided every nation would go into it. So with banks; but let the system of paper money remain everywhere else, and throw it aside here, we should be at fearful odds. There was not any too much money now, but you throw away paper money you reduce the quantity, and the amount of money was the standard measure for valuing property. For example, the specie constituted one-fourth or one-third of the whole circulating medium, including drafts, bills, checks, and the whole system by which money is represented. Throw aside the three-fourths of paper and you would have but one-fourth as much money; property being measured by this standard would be reduced three-fourths also. A man having purchased a farm worth \$2,000, and given a mortgage for \$500, his farm under the new standard would just pay the mortgage and he would have nothing left.

Again, suppose a merchant worth \$4,000 gets his capital into specie—\$1,000 by the new standard—and goes to New York to buy goods. Would they give him \$4,000 worth of goods? No, they would tell him, “Your specie is not worth as much as our paper.”

This whole system was an experiment; it had not been tried anywhere else, and it would fail here. We should find it like the experiment of the chemist upon the mouse: He put him into a glass jar and exhausted the air by means of an air pump, and what was the effect? The mouse died. It would be precisely the case with us; exhaust our pockets of money and the experiment would be fatal to the business of the country.

He said the chemist also tried another experiment: He put a cat into his jar and applied his air pump, when puss began to be troubled for breath. With a cat's sagacity she looked around for the cause, when, discovering the difficulty, she clapped her hand over the hole! Said he—we begin already to feel troubled for respiration—we begin to feel the effect of this experiment upon the monetary affairs of the country—we discover the cause—let us like the cat in the jar apply our hands to the hole! (Here there was a burst of merriment from the whole house.)

The Governor went on to show by discursive argument and illustration the effects which would be produced by throwing away paper money; with masterly power he showed himself intimately

acquainted with the subject, and to men who were not bound up in prejudged opinions his arguments and illustrations were entirely satisfactory.

Much had been said against banks because they sometimes expanded and contracted their issues. He contended that reasonable expansions and contractions were healthful. At different seasons there was a difference in the demand for money. In adjusting their circulations to the business of the country, they accommodated the business men of the country. For illustration: At different seasons of the year when the earth expanded the produce of the country, so to speak, by throwing into market its bountiful harvest, there was a greater demand for money to purchase it, and the farmer was enabled to obtain the money for his produce, when otherwise there would not be money enough in circulation to buy it.

Again, the banks were a benefit to all classes of society—the merchant, the mechanic, the day laborer, and so on. He said some years since a master carpenter was employed by him to build him a house. After he had been at work some time, he came to him and said he wanted him to endorse his note to the Poughkeepsie bank. He asked him why he came to him to endorse his note.

“Why,” said the carpenter, “I have employed several men here by the day who want provisions for their families, and I can’t get the money for them under three months when my payment falls due from you, and if you will endorse my note to the bank, I can get the money and pay off my hands, and when the three months comes round you will pay me, I will pay the note, and we shall all be accommodated.”

He said he endorsed the note—the carpenter got the money, and the day laborers got their bread for their families.

Governor Tallmadge said the opposition to banks grew out of the effects of an unsound system of banking—he was in favor of no such system.

In concluding his remarks the speaker alluded to the exemption article and the elective judiciary and went on to make some general reflections upon the effects which would follow the adoption of the instrument as a whole. He said in reading the accounts of the storming of Monterey he had observed an anecdote of a soldier who saw the falling of a bombshell from the American battery, which planted itself in the bowels of a Mexican and there exploded, blowing the man into atoms, “Well! I declare, Lieutenant,” says the soldier, “that man is killed very dead.” I hope gentlemen, said



Governor Tallmadge, you will go to work, and that the results of your labor will be that the constitution will be defeated—will, like the Mexican soldier, be killed dead, very dead!

A tremendous burst of applause, and a round of enthusiastic cheering told the power of the illustration. The effect of the speech was to call out a constitutionalist, who after a convulsive effort appealed to the house to know if he hadn't knocked the Governor's logic all to pieces! And this called out another distinguished gentleman who said he had reason to believe this was but the beginning of a series of efforts by a veteran in politics and begged the Constitutionalists in God's name be firm and make corresponding efforts in its favor!

Here the meeting adjourned.

SELECTIONS FROM THE GREEN BAY *ADVOCATE*

## THE CONSTITUTION

[February 11, 1847]

In a recent tour through portions of the territory most alive to the question of the adoption of the constitution we have taken some pains to ascertain the popular feeling in this matter. A desperate struggle has been and is now making at Milwaukee and other places near for its rejection, and all the hue and cry raised for this purpose can be traced directly to that quarter. Money is lavished profusely, and emissaries sent abroad and paid for barroom speeches and creating public opinion where there is wavering and indecision. They are taking the surest means at the best possible moment for its defeat, and unless our friends awake from their dream of security, it will be effected. At Madison where people from the four quarters of the territory were centering during the session this plan of operations was most zealously carried on. The banking interest had its Myrmidons there in scores, and no sooner did a stranger arrive from the west, or south, or north, than he was beset upon and not left until thoroughly impressed with the belief that the constitution was the most horrid thing ever concocted, and unless immediately beheaded would, like the dreadful dragons of our grandmothers' tales, wide scourge the land and sweep from its surface all good and well-meaning people. Those from the south went home with the impression that the north would array against it in overwhelming numbers, and the west was plied with assurances that the east took the same position. This has had its effect among the traveling portion of the community, and those are the very ones who will do the most damage. Such a policy, like the smallpox, spreads successfully only upon traveled roads; let it work upon its own merits and it will die of its own foulness in the tracks where it originated. Not a man of either party who has read that constitution with judgment unwarped has given any other opinion than a favorable one. There are provisions in it which do not suit in every instance, but the instrument is looked upon as a whole as one which cannot by any body of men be improved.

But notwithstanding all this exertion, if our friends remain true, the constitution will be adopted by a larger majority than was given for the body who formed it. It will work its own triumph.

Nothing but base treachery can withhold it. Were the instrument hid while this effort is making, then there would be some danger; but there it stands, a living refutation of all false reasoning, and as sure to be welcomed by the people as the sun which comes to release us from darkness and shed warmth and light over the land.

The only sections which are particularly harped upon now by the Whig press are those relating to banking and exemption. We have before given our views upon these points and have now only to ask our readers to mark the issue. We are opposed to banks, and they are in favor of them; we are in favor of securing to every family a homestead against the contingency of misfortune or grasp of avarice, and they are opposed to it. If they prevail in the contest, we may fairly calculate upon having shaving shops beside our very doors and jostling and contesting for every cent earned by the sweating brow. We may bend our backs in submission and carry the load of corruption and dishonesty that will assuredly crush us in spite of every attempt to throw it off. We have seen this before and have no excuse for shutting our eyes to the consequences. We have seen the workings of the "Wildcat" system of Michigan, and the "Pet" system of New York. We have seen these concerns break with the main amount of their issues in the smaller channels, when the holders were of all the community least able to lose by the fraud. We have seen the brokers by a preconcerted arrangement with the banks buy up the issues at an extravagant discount, and we have seen the banker and broker come together and divide the profits. We have seen the specie gathered up and loaned abroad and paper take its place at home. We have never seen as good paper currency as specie, and yet we have seen mechanics working by the day and receiving paper for their wages at specie value; and we have never seen a banking system so hedged around and guarded against fraud but that ample doors were left open for rascality, and yet we have seen these institutions, increasing in number and rottenness, flooding our land and traveling westward side by side with the cabin of the emigrant. They are the evil genius of republicanism, and if we throw them off there must be a mighty effort. The issue is made; let us not lose sight of it—they fight for banks; we fight against them.

The exception taken by the opposition to the article on the rights of married women is an excellent example of Whig warfare. The first attempt ever made to introduce such a law into our territory was made in the legislature by a Whig member from Grant County. It was then brought forward as a Whig measure, and now when it has succeeded to a place in the constitution they crawlfish solely on



party grounds. We do not claim it as belonging to our party and are not particularly in favor of it, but give this to example Whig consistency. Exemption from forced sale was also started in the Whig ranks, and they in common with others have fought for it for years. The article as engrafted into the constitution has received the applause of the press of both parties throughout the Union, but the Whigs here again show their peculiar tactics and denounce it as Democratic. Well, it is Democratic, and though conceived in Whiggery, flies from them as did Lot from the wicked cities. We have often enough given our views as to its effect in keeping a larger share of earth in the hands of the working man—in lessening the odds of capital over labor—in producing more honor and peace and character among men—and we leave it to the consideration of those who are to vote upon it and feel the result of its acceptance or rejection.

Let every Democrat and everyone who believes in the fundamental principles of republicanism—freedom and equality among men—come out openly, and in the strength of right battle against the wrong. There is but one conclusion which candor can arrive at upon reading this constitution: that it is good and founded in democracy. And after that conclusion there is but one course to take—to come up to its rescue and deliver it from the hands of the Philistines who are seeking its defeat.

#### DEMOCRATIC RESOLUTION EXTRAORDINARY—THE CONSTITUTION—THE *ARGUS*

[February 25, 1847]

In another column will be found the proceedings of a meeting of the Democratic members of the legislature. The resolutions with the exception of one we believe are good and embody our principles. But that one, in our opinion, does not, and it is of that alone we intend to speak. We refer to the resolution upon the subject of the constitution which discards the principle that the adoption or rejection of that instrument is a party matter. We do not know how far the wise ones who set that ball in motion will succeed in making the people believe that black is white, or that a "horse-chestnut" is a "chestnut horse," but we have our own idea that it is the most signal instance of humbuggery extant, and will only have the effect to disgust all honest men with those who gave it birth. Now we happen to know something of its history, and we know that, so far from speaking the sentiments of the Democratic party, it does

not speak the sentiments of the body which adopted the series of resolutions. It originally emanated from one or two members of the legislature who are opposed to the constitution and was brought up repeatedly through a series of meetings or caucuses and zealously combated by those who knew its meaning, whenever it made its appearance. At the final meeting, February sixth, it came up, and a motion was made to strike out the last clause of the resolution, which was lost by a tie vote. Well, it passed—and its wise supporters say to us benighted beings, the people, “We have taken compassion on your ignorance and have concluded to tell you that, although you sent Democrats to make your laws and carry out your principles and they have done so, yet you have nothing more to say in the matter. Democracy has in the process of being engrafted into your organic law lost its original character and is merged into Whiggism, abolitionism, and every other ism known in Wisconsin. It has now no name—it has lost its identity. We have not time now to tell you how it was done—it is not our province to explain.”

We suppose it was done much after the manner that the miller takes wheat into his mill and turns out flour and cajoles the farmer into the belief that the flour does not belong to him, because it is food for everybody. But no matter about that—let us admit the validity of the argument and then consider wherefore it came. What right has the legislative body to act upon the constitution or anything pertaining to it? Or what superiority do they possess which enables them to dictate to the mass whether they shall vote for a thing under one name, or under another? They have traveled out of their road a long way to reach something which belongs exclusively in the province of their constituents, and which has not in the most remote manner anything to do with their mission. A convention was called to frame a basis upon which to test our state organization; they finished the work, pronounced it Democratic, and left it to the people to say whether it is good or not. A legislature composed of about one-third of as many as the convention met some months afterward for the purpose of legislating in the local and private affairs of the people and in territorial matters. They did that well, for aught we know, and in addition have settled the matter of the constitution—they pronounce it good, but not Democratic! They have put at rest all doubts as to the difference ‘twixt tweedle-dum and tweedle-dee. Shade of Demosthenes! how art thou eclipsed!

But the joke does not end here. The *Wisconsin Argus* is suddenly seized with the same know-everythingphobia and expounds

upon the matter with gravity extraordinary. Balaam's animal did not speak more promptly when kicked than does that print when nudged by the movers of the resolution. Since the nomination of delegates the *Argus* has done battle with the rest of us for Democracy—has urged the organization of our principles into the constitution—has joined with us in congratulating on our triumph—has labored with our party against the Whigs in a hand-to-hand fight for it, as belonging to our party—but all at once has been taken with a sudden sense of wrong action and withdraws to the neutral part of the field, saying, "Hold on, don't fight any more, and we will join with the enemy and divide the glory—they fight with guns, so do we; where's the difference?" The *Argus* gives a series of reasons in defense of its position, the most prominent of which are—

Because the constitution embraces many principles which all parties hold in common and many provisions which are mere matters of expediency and have no imaginable relation to party politics or political principles of any kind. Where are the two men who would not agree that the government should consist of three departments and that the powers and duties of these departments should as far as practicable be separate and distinct from each other, or who would disagree as to the propriety of having the legislature consist of the two houses or having a supreme and inferior courts, or in respect to any one section of the bill of rights?

And, because,

In our case, a convention was elected on party grounds, and the Democratic party was largely in the majority. Now if the same majority is bound to adopt the instrument whether they like it or not, submitting it to a vote of the people at all is a mere farce or at best a mere formality, and the action of the convention, as in the case of a legislature, might just as well have been final upon the question. In either case we are bound by the action of the convention and have nothing further to say about it.

There are other "becausees" put forward with equal gravity, which we do not deem necessary to answer; neither have we the room this week to do so. We grant the truth of the first extract, but ask if there are not many more principles in that instrument, great and weighty ones, which parties do not "hold in common" and upon which alone has been based the hostility of the Whigs against us? We will instance chartered monopolies, for example. One set of men struggled to have them legalized in the constitution; another set of men struggled and successfully, too, to keep them out. This difference of opinion is a party line; you cannot make anything else out of it. And it is upon these differences that we are battling, not upon those "principles in common." The arguing is most shallow



which lugs in these things as a pretext for doing away with party. An incorporation is about to build a house, and the question arises: What kind of one shall it be? A part wish it built in church form, with slips, pulpit, etc., and the other part are in favor of a theatre, with stage, pit, and galleries. Thus a dispute is got up, when all at once a Solon arises and says, "What fools, to dispute about so little a matter, when you all agree that the house must have beams, and joists, and roof, and doors, and windows. All houses are built to protect us from the weather. Then let us not divide into factions upon the minor point whether this one shall be built for the worship of God or Thespis."

Again, the *Argus* says the convention was elected on party grounds—our own being largely in the majority—and if the same majority is bound to adopt the instrument, whether they like it or not, its submission to the people is a mere farce, etc. When we elected delegates, we proclaimed our principles and sent our men to carry them out. Well, if the constituent had perfect confidence that these principles would be carried out, he would have no objection to a "final action" by the convention. But such is never the case. We know not the prejudices and preferences of our candidates and ask that their work may be submitted to us, that we may see whether their duty has or has not been performed. This is all that can honestly come of a submission to the people. We are not, of course, bound to adopt the instrument, if bad. But if they have acted faithfully and their work is good we are bound to uphold them and defend our principles by acting as a party in their support. What sense can there be in urging our principles before election, if we are to desert them immediately after? Democracy then was what it is now.

But enough of this. We like not the course of the *Argus*, shifting and varying as it is between right and wrong, and we now only wish to place in juxtaposition two paragraphs of different articles in the same number of that paper (February 16) which as flatly conflict with each other as did ever two papers of opposite politics. Speaking of this subject, in one column, it says:

The resolution relative to the constitution, we believe, did not pass unanimously and probably will not meet with universal approbation. For our own part, we are well pleased with its mild and conciliatory character, and especially that it dis-courte-nances the idea of making the adoption or rejection of the constitution a party question. This we believe to be the true ground for both the advocates and opponents of the constitution, and especially the former.

That's rich, decidedly. But a change comes over the spirit of his dream. As if scared at the ugly sound of that paragraph, he opens, in an adjoining column, with a violent exhortation to the party, thus:

Democrats of Wisconsin! The time has come for action! The election which takes place in about six weeks is by far the most important ever held in our territory. Our opponents, aware of this, are unceasing in their efforts, and already we hear them gloating over a fancied division in our ranks and an easy triumph. Democrats, this must not be! We must meet them on every point and teach them that whatever differences of opinion exist among individuals, yet we can rally round our chosen principles.

In the words of the immortal Jefferson, we would say, "Warn the committees." Organize by counties, organize by townships, precincts, and school districts, and see that such arrangements are made as will bring every Democratic voter to the polls. What is wanted now is action, action, action! Beware of false issues.—Beware of the deceptive clamors raised against the constitution, and vote upon it as your conscience tells you to be right. There is but one great issue to be decided and that is, Shall Democracy or Federalism prevail?

Well, which shall we take, Mr. *Argus*? You leave us in a most perplexing doubt—we can call thee neither friend nor foe:

"Under which king, Benzonian?  
Speak or die!"

PART V THE VOICE OF THE ELECTORATE





GOVERNOR DODGE'S PROCLAMATION ON THE  
RESULT OF THE ELECTION <sup>30</sup>

To all to whom these presents shall come:—WHEREAS The people of the territory of Wisconsin did on the sixteenth day of December, 1846, by a convention of their delegates assembled at Madison, the seat of government, form a constitution for a state government, which by the ninth section of the nineteenth article of said constitution was submitted to the qualified electors of said territory for their acceptance or rejection. And WHEREAS, the said electors did meet at their respective county seats and election precincts on the sixth day of April last and did then cast their votes for or against the adoption of said constitution; and WHEREAS, by a resolution passed by said convention the question of colored suffrage was at the same time submitted for the votes of said electors:

Now, THEREFORE, BE IT KNOWN, That from the official returns of said election as made to the executive department it appears that the whole number of votes cast on the question of the constitution was 34,352 and that the majority was 6,114 votes against the adoption of said constitution; the whole number of votes cast on the question of colored suffrage was 22,279 and the majority was 6,951 votes against equal suffrage to colored persons.

IN TESTIMONY WHEREOF, I have hereunto set my hand and  
L. S.                   caused the great seal of the territory to be affixed.  
Done at Madison, this tenth day of May, A. D. 1847.

[A copy]

HENRY DODGE

<sup>30</sup> Reprint from the Madison *Wisconsin Argus*, May 18, 1847.

## OFFICIAL RETURNS

	Constitution		Equal suffrage to colored persons	
	Yes	No	Yes	No
Brown &.....	331	165	31	356
Manitowoc.....				
Calumet.....				
Columbia.....	66	354	70	267
Crawford.....	49	150	2	153
Chippewa.....				
Dane.....	592	962	291	693
Dodge.....	803	975	483	444
Fond du Lac.....	624	627	450	399
Grant.....	532	1898	93	2215
Green.....	341	607	129	628
Iowa.....	1444	1417	69	2504
Lafayette &.....				
Richland.....				
Jefferson.....	780	1233	598	525
La Pointe.....				
Marquette.....	184	189	147	140
Milwaukee.....	1670 <sup>31</sup>	1996	616	1832
Portage.....	164	209	11	253
Racine.....	1363	2474	1206	763
Rock.....	987	1977	858	994
Sauk.....	111	157	58	143
Sheboygan.....	160	374	145	217
St. Croix.....	65	61	1	126
Walworth.....	984	2027	1094	714
Washington.....	1478	353	84	1328
Waukesha.....	1246	1825 <sup>32</sup>	1107	617
Winnebago.....	137	203	121	104
Total.....	14,119	20,233	7,664	14,615 <sup>33</sup>
Majority.....		14,119		7,664
		6,114		6,951

<sup>31</sup> This figure should be 1678. See *Journal of the Council*, special session, October, 1847, p. 62.

<sup>32</sup> In *Journal of the Council*, special session, October, 1847, 1823 votes are recorded.

<sup>33</sup> The correct total for this column is 15,415.



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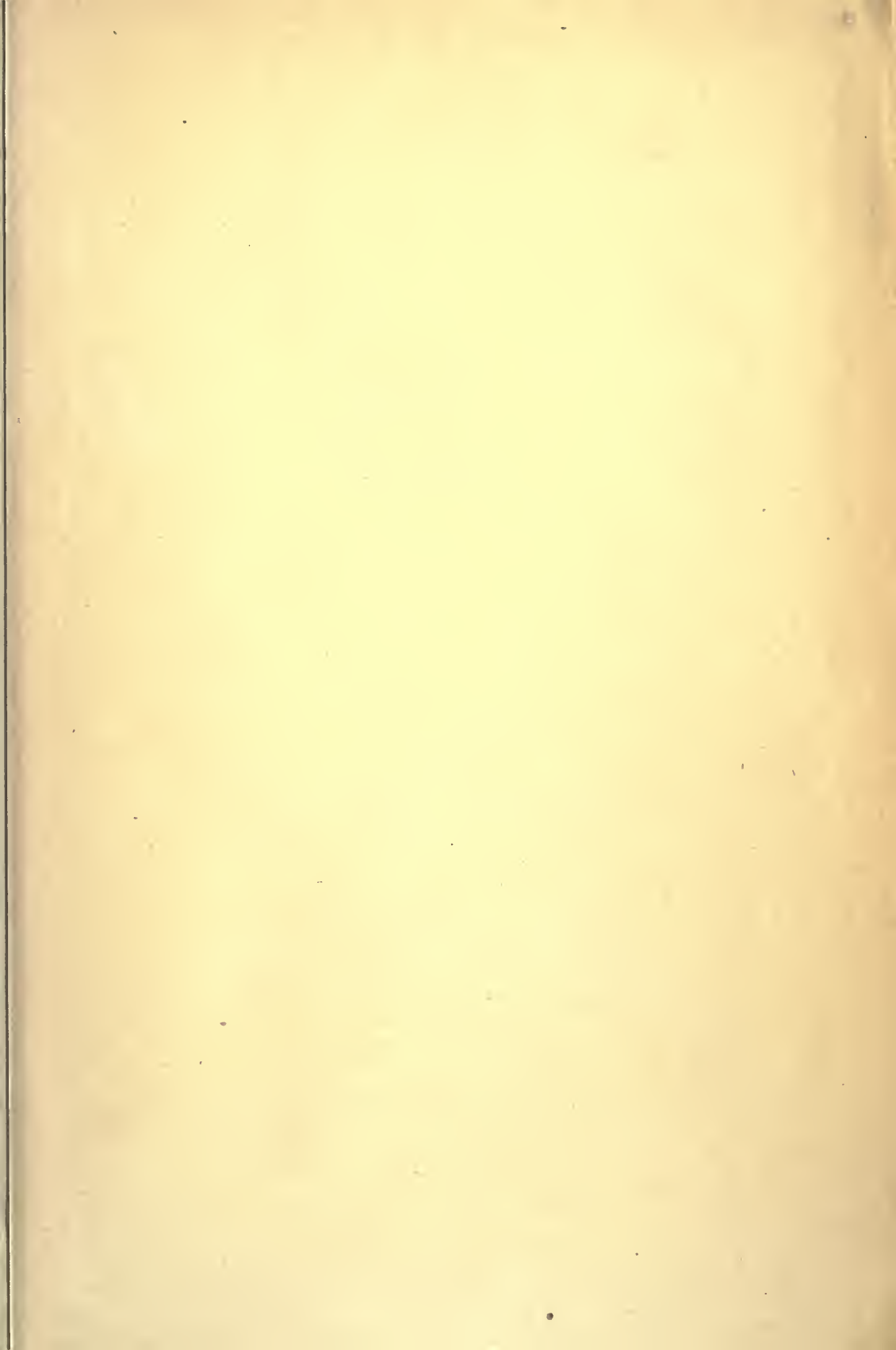


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