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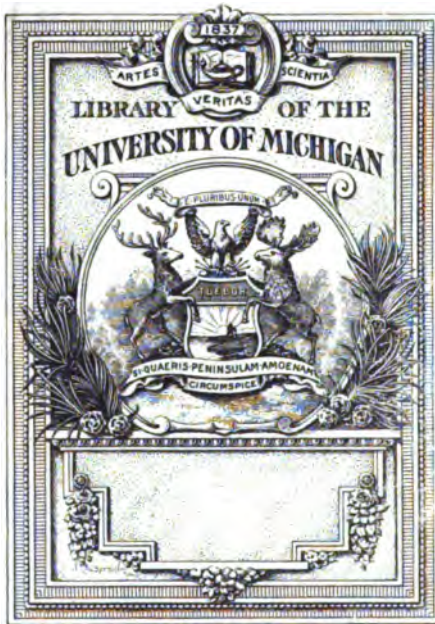
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DEBATES

OF THE

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CONVENTION

TO AMEND THE

CONSTITUTION OF PENNSYLVANIA: *Const. cover*
1872-73

CONVENED AT

HARRISBURG, NOVEMBER 12, 1872;

ADJOURNED NOVEMBER 27,

TO MEET AT

PHILADELPHIA, JANUARY 7, 1873.

VOL. VIII.

HARRISBURG:
BENJAMIN SINGERLY, STATE PRINTER.
1873.

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DEBATES

OF THE

Convention to Amend the Constitution.

ONE HUNDRED AND SIXTY-SIXTH DAY.

THURSDAY, October 16, 1878.

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

Prayer by Rev. John Douglas, D. D., of Pittsburg.

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

NEW MEMBER.

Mr. JAMES P. BARR, delegate at large, chosen to fill the vacancy occasioned by the resignation of Mr. J. S. Black, being present in the Hall, advanced to the desk, and the prescribed oath having been administered to him, he took his seat in the Convention.

CONSTITUTIONAL ELECTION.

The PRESIDENT laid before the Convention a communication from the Secretary of the Commonwealth transmitting, in answer to a resolution of the ninth instant, returns of the general election held on the second Tuesday of October, 1878, and the returns of the election of the same year on the amendments to the Constitution, which was laid on the table.

MEMORIAL.

Mr. J. N. PURVIANCE presented a memorial of members of the bar of Armstrong county, stating that they had signed their names to the petition heretofore presented on the subject of creating that county into a separate judicial district; which was laid on the table.

LEAVES OF ABSENCE.

Mr. NILES asked and obtained leave of absence for Mr. Parsons and Mr. Metzger for a few days from to-morrow.

Mr. EWING asked and obtained leave of absence for Mr. T. H. B. Patterson for to-day and to-morrow.

Mr. J. N. PURVIANCE asked and obtained leave of absence for Mr. Dallas for to-day on account of sickness.

Mr. LAMBERTON asked and obtained leave of absence for himself for Monday next.

Mr. ALRICKS asked and obtained leave of absence for himself for Monday and Tuesday next.

Mr. BEEBE asked and obtained leave of absence for Mr. Corbett for Monday next.

Mr. BEEBE asked and obtained leave of absence for himself for to-day after twelve o'clock.

DEBATE ON RAILROAD ARTICLE.

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

Resolved, That the debate on the article on railroads and canals shall close at eleven o'clock this day, and that the Convention will then proceed to vote on any amendments offered and subsequently on the article itself, without discussion.

The Convention refused to order the resolution to a second reading.

PAY OF TRANSCRIBING CLERKS.

Mr. ARMSTRONG. It will be remembered by the Convention that when the Committee on Salaries reported upon the

salaries of the officers and members, the salaries of the transcribing clerks were cut down from the amount reported the extent of five hundred dollars, under the supposition that all the salaries would thus be reduced. For the purpose of restoring those clerks to the salaries which were reported, and to make their salaries consistent with the salaries of other clerks, I offer the following resolution:

Resolved, That the pay of each of the transcribing clerks be increased five hundred dollars.

The resolution was read twice and considered.

Mr. DARLINGTON. I move that the resolution be referred to the Committee on Accounts and Expenditures.

Mr. HAY. Such a motion as that proposed by the delegate from Chester would be entirely improper. The Committee on Accounts and Expenditures is not the committee which reported upon these salaries, and the Convention is the only body that is competent to fix the compensation of its employees. I would suggest that the gentleman from Lycoming change the phraseology of his resolution so as to fix the salary at two thousand five hundred dollars, the amount originally reported.

Mr. ARMSTRONG. I will modify my resolution to make it accord to the report of the Committee on Salaries, which fixed the amount at two thousand five hundred dollars.

The PRESIDENT. It is so modified.

The resolution as modified was agreed to.

THE JUDICIARY.

Mr. JOSEPH BAILY. I rise to make a motion: I suppose it is a privileged motion and therefore in order. I move to reconsider the vote by which the article on the judiciary was finally passed.

Mr. DARLINGTON. I second the motion.

The PRESIDENT. When was that vote taken?

Mr. KAINE. Mr. President: Has the order for resolutions been passed?

The PRESIDENT. No, sir.

Mr. KAINE. Then I hope the gentleman from Perry will withdraw his motion for the time being.

The PRESIDENT. The motion cannot be received at present, and the gentleman from Fayette can offer a resolution if he so desires.

BOUNDARIES OF THE STATE.

Mr. KAINE. I offer the following ordinance declaring the boundaries of the State, and ask that the same be referred to the Committee on the Judiciary, with instructions to make a report on Monday morning:

SECTION 1. The boundaries of this State are declared to be as follows, viz: Beginning in the middle of the channel of the river Delaware, at the intersection therewith of the forty-second line, or beginning of the forty-third parallel of latitude, north from the equator: thence due west, by said line as the same was fixed, run and marked by commissioners of the States of Pennsylvania and New York, in the years 1786 and 1787, to a point thereon in the meridian of the most westerly bent or inclination of Lake Ontario, and thence due north, to Lake Erie, as said point and meridian, and line conforming therewith, were fixed run and marked by Andrew Ellicott, by authority of the United States, and with the assent of Pennsylvania and New York, in the year 1790; thence south-westwardly by Lake Erie, including Presque Isle, to a point in said Lake, where the said forty-second line of north latitude is intersected by a meridian line from the western terminus of the southern boundary of this State, as hereinafter described; thence due south, by said meridian line, to said western terminus, as the same were fixed, run and marked by commissioners of the States of Pennsylvania and Virginia, and as to part of the line, north of the river Ohio, by commissioners of this State, with the assent of the United States, in the years 1784, 1785 and 1786; thence due east, by the line commonly called "Mason and Dixon's line," as the same was fixed, run and marked by authority of the proprietaries of Pennsylvania and Maryland in the years 1765, 1766, 1767 and 1768, and by commissioners of the States of Pennsylvania and Virginia, in the year 1784, to a point therein, marked by a cut granite stone, about seven feet long, squaring sixteen by eighteen inches, set in the ground, having cut therein, on the west and south sides, the letter M, and on the north and east sides the letter P, and under the letter P, on the north side, the figures 1849 deeply cut; thence due south to another cut granite stone, of prismatic shape, about seven feet long and eighteen inches wide on each side, set in the ground, marked by having cut

therein the letters M, D, P, on the sides facing respectively the States of Maryland, Pennsylvania and Delaware, and having, also, on its north side, below the letter P, the letters, words and figures following, deeply cut, viz: "G. H. S. Key, of Md., J. P. Eyre, of Pa., G. R. Riddle, of Del., Commissioners—1849," said stones being and continuing in the places where they were set by said commissioners of the States of Maryland, Pennsylvania and Delaware, under the guidance of Lieut. Col. Jas. D. Graham, of the U. S. Corps of Topographical Engineers, in the year 1849; and from the said last described stone, northwardly and eastwardly, by a circular line, having a radius of twelve miles, horizontal measurement, from the centre of the steeple of the court house in New Castle, in the State of Delaware, as the same was in the year 1765, which circular line shall pass, at a point due east of the stone first aforesaid, four thousand and thirty-six feet therefrom—to the middle of the channel of the river Delaware; and thence northwardly, by the middle of the channel of said river, including the islands called Little Tinicum Island, Hogg Island, Mud, or Fort Island, League Island, Windmill Island, opposite Philadelphia, Byle's Island, near Trenton, and all other islands, islets and dry lands nearest to the western shore of said river, to the place of beginning.

The ordinance was referred to the Committee on the Judiciary.

FIREMAN OF THE CONVENTION.

Mr. CLARK offered the following resolution, which was read twice and considered:

Resolved, That the employment of John Switzer as fireman is hereby authorized, and that he be paid for his services at the rate of three dollars and fifty cents per day from the sixteenth day of September last.

Mr. CLARK. In explanation of the resolution I have to say that Mr. Switzer is not now in the employ of the Convention at any price. At the close of the last session of the Convention, he was discharged; but since the Convention has reassembled he has been here and has been in the discharge of his duties as fireman of the Convention. On the sixth of October a resolution was offered which reads as follows:

"That the Committee on Account and Expenditures are hereby directed to ex-

amine and settle the account of John Switzer, the fireman, and to allow him at the rate of three dollars and fifty cents per day since the meeting of the Convention on the sixteenth of September, and that a warrant on the State Treasurer be drawn in his favor for the amount found due."

That resolution was referred to the Committee on Accounts without instructions, and I am informed by the chairman of that committee that they have no authority to settle with him at any rate until after he is employed by the Convention; and therefore at the instance of the chairman of that committee, I have offered this resolution.

The resolution was agreed to.

ADJOURNMENT SINE DIE.

Mr. BARCLAY. I offer the following resolution:

Resolved, That in deference to public sentiment and from a desire to do something that will meet the hearty approval of the people of Pennsylvania, this Convention will adjourn *sine die* on the twenty-fourth instant.

The resolution was not ordered to a second reading.

CONSTITUTIONAL ELECTION.

Mr. WOODWARD. I offered a resolution a few days ago asking the Secretary of the Commonwealth to certify to this Convention the returns of the election, both for Governor and for and against the amendments to the Constitution of 1838, with a view of getting before us the extent of the comparative votes on the two questions in that year in Pennsylvania. An answer was received this morning to that resolution; and in order that gentlemen may have access to it, I move that two hundred copies be printed for the use of the Convention.

Mr. HAY. I desire to inquire whether that is not a communication to the Convention?

Mr. WOODWARD. Certainly.

Mr. HAY. Then it will go on the Journal, and we shall have it there.

Mr. WOODWARD. It is addressed to the President of the Convention.

Mr. HAY. Then it will go on the Journal.

The PRESIDENT. It will go on the Journal at length.

Mr. HAY. I suggest that it will be printed in the Journal, and we shall get it the day after to-morrow. It is unnecessary to print it again.

Mr. WOODWARD. Very well, I withdraw the motion.

Mr. KAINE. All that information will be found in the Journal of the old Convention, and more than there is there.

Mr. WOODWARD. Where will the gentleman find it? But I withdraw the motion.

SUBMISSION OF THE CONSTITUTION.

Mr. AINEY. I desire to call up the resolution offered by myself a few days since in relation to the manner of the submission of the Constitution to the vote of the people.

I desire to modify the resolution, and I send it up in a modified form. When it is read as modified I shall ask to have it referred to the Committee on Election, Suffrage and Representation.

The PRESIDENT. It is for the Convention to say whether they will take it up. The delegate from Lehigh moves to take from the table the resolution offered by him some days since.

Mr. AINEY. I propose to modify it and refer it.

The PRESIDENT. The question is on the motion to take up the resolution.

The motion was agreed to, ayes forty-three, noes not counted, and the Convention proceeded to consider the following resolution, submitted by Mr. Ainey on the seventeenth of September last:

Resolved, That the Committee on Suffrage, Election and Representation be and are hereby instructed to prepare and report an ordinance for the submission of the new or amended Constitution to a vote of the people, on the—day of—next, which ordinance shall, with the other necessary provisions, contain a proviso, that but one ticket shall be voted on so much of the Constitution as shall be submitted as a whole, which ticket shall be headed "New or amended Constitution," and under this shall be printed consecutively the numerical designation of each article and such sections of each article as one-third of the Convention may ask to have voted on separately, in such convenient form that voters may readily cross or strike out with a pen or pencil any article or any section of any article, and each and every article or section so marked shall be deemed, taken and held to be a vote against such article or section; and the remaining articles and sections not so marked out shall be deemed, taken and held to be a vote in favor of the same.

Mr. AINEY. I now move that the resolution be referred to the Committee on Suffrage, Election and Representation.

Mr. DARLINGTON. If I understand that resolution, it contains instructions to the Committee on Suffrage, Election and Representation. I think that unwise. I move to refer it without instructions, and let the Committee on Suffrage report what they think proper about it.

Mr. AINEY. I rise simply to say that this resolution does not instruct the committee at all. Until the resolution is adopted by the Convention it does not become the action of the Convention. This motion is simply to get the proposition before this body and before the committee, and as it is now before the Convention I move to refer it to the Committee on Suffrage, Election and Representation, which is no instruction to that committee. It is a mere suggestion; that is all.

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

The motion was agreed to, ayes fifty-two, noes not counted.

THE JUDICIARY.

Mr. JOSEPH BAILY. I now make my motion to reconsider, with the understanding that I do not wish action on it to-day. I ask to have it postponed for the present.

The PRESIDENT. It is moved to reconsider the vote upon the final passage of the article on the judiciary. Did the gentleman from Perry vote with the majority?

Mr. JOSEPH BAILY. I did.

The PRESIDENT. When was the article passed?

Mr. JOSEPH BAILY. On last Thursday, and I find by the rule that I am inside the time required for a motion to reconsider. The rule says "within six days of actual session," and this is the sixth day.

The PRESIDENT. The delegate is within the time, and can move a reconsideration. Who seconds the motion?

Mr. DARLINGTON. I do.

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

Mr. DARLINGTON. I did.

Mr. ARMSTRONG. Before the vote is taken I suppose it is reasonable to know the cause why the gentleman desires this vote reconsidered. He ought to explain to the Convention, or else I do not think his motion should prevail.

Mr. JOSEPH BAILY. I do not desire to have my motion acted on now, but postponed for the present.

Mr. ARMSTRONG. That may be proper, but we ought to know what modification the gentleman desires in the judiciary article. If it is intended by this motion to reopen the debate on the whole article, I think the motion should not be agreed to. If the gentleman proposes to reconsider any particular part, he should so state.

Mr. JOSEPH BAILY. I will inform the gentleman from Lycoming what I propose to do. I make this motion for the purpose of specially amending that article. I desire to have the thirty-second section stricken out, the section that provides for the creation of separate judicial districts for counties of forty thousand population.

Mr. ARMSTRONG. Then why not move to reconsider that part of it.

Mr. JOSEPH BAILY. I cannot.

The PRESIDENT. The motion is not debatable. Those in favor of the motion to reconsider will say aye—

Mr. JOSEPH BAILY. I do not desire action upon that motion at present. I move to postpone for the present the motion to reconsider.

The PRESIDENT. It is in order to make the motion. It is now moved to postpone for the present the motion to reconsider.

Mr. KATNE. On that I call for the yeas and nays.

Mr. CORBETT. I second the call.

The CLERK proceeded to call the roll.

Mr. BAER. [When his name was called.] I rise to a point of order. This question of reconsideration was raised on Friday last and was voted down. I offered a resolution to reconsider the article, and the Journal will show that I am correct.

Mr. D. W. PATTERSON. Oh no, the vote can be reconsidered at any time within six days.

Mr. MACVEAGH. Is it in order after the yeas and nays are ordered and partially taken, to raise a point of order upon the entertainment of the motion.

Mr. BAER. Certainly, it is in order at any time.

Mr. MACVEAGH. Surely it is not.

Mr. COCHRAN. I have before me the resolution offered by the gentleman from Somerset on Friday last, and it is an entirely different suggestion from this. That was a motion to reconsider coupled with a proposition to refer the article to a special committee of thirty-three members.

The PRESIDENT. The Clerk will proceed with the call.

The CLERK proceeded to call the roll, which was completed with the following result:

YEAS.

Messrs. Ainey, Alricks, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Barr, Bartholomew, Bigler, Boyd, Brodhead, Buckalew, Calvin, Campbell, Carter, Cochran, Curtin, Darlington, Davis, Dunning, Ellis, Ewing, Fulton, Funck, Gibson, Gilpin, Green, Guthrie, Hall, Hanna, Harvey, Hazard, Hemphill, Horton, Howard, Hunsicker, Knight, Lamberton, Landis, Lawrence, Lear, Lilly, MacVeagh, M'Clean, M'Culloch, M'Michael, Mann, Mantor, Patterson, D. W., Read, John R., Reed, Andrew, Reynolds, Rooke, Stanton, Stewart, Struthers, Wetherill, J. M., Wetherill, John Price, White, J. W. F. and Woodward—60.

NAYS.

Messrs. Andrews, Armstrong, Baer, Barclay, Beebe, Biddle, Black, Bowman, Broomall, Brown, Church, Clark, Corbett, Corson, Curry, De France, Dodd, Edwards, Elliott, Finney, Hay, Katne, MacConnell, Metzger, Minor, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patton, Purman, Purviance, John N., Purviance, Sam'l A., Runk, Smith, Henry W., Smith, William H., Turrell, Van Reed, Wherry, White, David N., White, Harry, Wright and Walker, *President*—43.

So the motion to postpone the motion to reconsider was agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Bardaley, Bullitt, Carey, Cassidy, Collins, Craig, Cronmiller, Cuyler, Dallas, Fell, Heverin, Littleton, Long, M'Camant, M'Murray, Mitchell, Mott, Newlin, Patterson, T. H. B., Porter, Pughe, Ross, Russell, Sharpe, Simpson, Smith, H. G., Temple and Worrell—30.

THE LEGISLATURE.

Mr. KNIGHT submitted the following report, which was read:

The Committee on Revision and Adjustment report as follows in reference to the article on the Legislature, which was recommended:

The said committee have reconstructed sections sixteen and seventeen, concerning senatorial and representative apportionments, retaining the substance of said sections as the same existed when so referred, as near as may be, to wit:

Mr. WOODWARD. Very well, I withdraw the motion.

Mr. KAINE. All that information will be found in the Journal of the old Convention, and more than there is there.

Mr. WOODWARD. Where will the gentleman find it? But I withdraw the motion.

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Mr. AINEY. I desire to call up the resolution offered by myself a few days since in relation to the manner of the submission of the Constitution to the vote of the people.

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Mr. AINEY. I now move that the resolution be referred to the Committee on Suffrage, Election and Representation.

Mr. DARLINGTON. If I understand that resolution, it contains instructions to the Committee on Suffrage, Election and Representation. I think that unwise. I move to refer it without instructions, and let the Committee on Suffrage report what they think proper about it.

Mr. AINEY. I rise simply to say that this resolution does not instruct the committee at all. Until the resolution is adopted by the Convention it does not become the action of the Convention. This motion is simply to get the proposition before this body and before the committee, and as it is now before the Convention I move to refer it to the Committee on Suffrage, Election and Representation, which is no instruction to that committee. It is a mere suggestion; that is all.

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Mr. ARMSTRONG. Before the vote is taken I suppose it is reasonable to know the cause why the gentleman desires this vote reconsidered. He ought to explain to the Convention, or else I do not think his motion should prevail.

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Mr. JOSEPH BAILY. I will inform the gentleman from Lycoming what I propose to do. I make this motion for the purpose of specially amending that article. I desire to have the thirty-second section stricken out, the section that provides for the creation of separate judicial districts for counties of forty thousand population.

Mr. ARMSTRONG. Then why not move to reconsider that part of it.

Mr. JOSEPH BAILY. I cannot.

The PRESIDENT. The motion is not debatable. Those in favor of the motion to reconsider will say aye—

Mr. JOSEPH BAILY. I do not desire action upon that motion at present. I move to postpone for the present the motion to reconsider.

The PRESIDENT. It is in order to make the motion. It is now moved to postpone for the present the motion to reconsider.

Mr. KAINE. On that I call for the yeas and nays.

Mr. CORBETT. I second the call.

The CLERK proceeded to call the roll.

Mr. BAER. [When his name was called.] I rise to a point of order. This question of reconsideration was raised on Friday last and was voted down. I offered a resolution to reconsider the article, and the Journal will show that I am correct.

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The PRESIDENT. The Clerk will proceed with the call.

The CLERK proceeded to call the roll, which was completed with the following result:

YEAS.

Messrs. Ainey, Alricks, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Barr, Bartholomew, Bigler, Boyd, Brodhead, Buckalew, Calvin, Campbell, Carter, Cochran, Curtin, Darlington, Davis, Dunning, Ellis, Ewing, Fulton, Funk, Gibson, Gilpin, Green, Guthrie, Hall, Hanna, Harvey, Hazard, Hemphill, Horton, Howard, Hunsicker, Knight, Lambertson, Landis, Lawrence, Lear, Lilly, MacVeagh, M'Clean, M'Culloch, M'Michael, Mann, Mantor, Patterson, D. W., Read, John R., Reed, Andrew, Reynolds, Rooke, Stanton, Stewart, Struthers, Wetherill, J. M., Wetherill, John Price, White, J. W. F. and Woodward—60.

NAYS.

Messrs. Andrews, Armstrong, Baer, Barclay, Beebe, Biddle, Black, Bowman, Broomall, Brown, Church, Clark, Corbett, Corson, Curry, De France, Dodd, Edwards, Elliott, Finney, Hay, Kaine, MacConnell, Metzger, Minor, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patton, Purman, Purviance, John N., Purviance, Sam'l A., Runk, Smith, Henry W., Smith, William H., Turrell, Van Reed, Wherry, White, David N., White, Harry, Wright and Walker, *President*—43.

So the motion to postpone the motion to reconsider was agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Bardsley, Bullitt, Carey, Cassidy, Collins, Craig, Cronmiller, Cuyler, Dallas, Fell, Heverin, Littleton, Long, M'Camant, M'Murray, Mitchell, Mott, Newlin, Patterson, T. H. B., Porter, Pughe, Ross, Russell, Sharpe, Simpson, Smith, H. G., Temple and Worrell—30.

THE LEGISLATURE.

Mr. KNIGHT submitted the following report, which was read:

The Committee on Revision and Adjustment report as follows in reference to the article on the Legislature, which was recommitted:

The said committee have reconstructed sections sixteen and seventeen, concerning senatorial and representative apportionments, retaining the substance of said sections as the same existed when so referred, as near as may be, to wit:

SECTION 16. The State shall be divided into fifty senatorial districts of compact and contiguous territory, as nearly equal in population as may be. Each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio; but no county shall form a separate district unless it shall contain four-fifths of a ratio. The county of Delaware may be united with adjoining wards of Philadelphia to form a district; and no city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district.

SECTION 17. The members of the House of Representatives shall be apportioned among the several counties on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one Representative for every full ratio, and an additional Representative when the surplus exceeds half a ratio; but each county shall have at least one Representative. Every county containing five ratios or more shall have one Representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the Representatives allotted to the county in which it is located. Every city entitled to more than four Representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact territory, each district to elect its proportion of Representatives according to its population; but no district shall elect more than four Representatives.

Mr. BUCKALEW. I move that the sections sixteen and seventeen as reported be printed.

The motion was agreed to.

RAILROADS AND CANALS.

The PRESIDENT. The next business in order is the consideration of the unfinished business of yesterday, being article number seventeen, on railroads and canals on third reading. Will the Convention proceed to the consideration of that article? ["Aye." "Aye."] It is before the Convention on third reading. When the Convention adjourned yesterday the

question pending was the motion of the delegate from the city (Mr. Woodward) to go into committee of the whole for the purpose of amending section seven. The amendment will be read.

The CLERK read the amendment, which was to strike out all after the words "shall not" in the second line of the second section, and insert the following:

"Be permitted to form or belong to transportation companies or associations who engage in the transportation of freight or passengers over the works of any railroad owned or worked by the railroad company of which they are employees or officers."

So that the section will read:

"Presidents, directors, officers, agents and other employees of railroad and canal companies shall not be permitted to form," &c.

Mr. WOODWARD. When the Convention adjourned yesterday I was about stating in a few words the purposes of this amendment. I want to say that my amendment is not intended to change the principle which the committee incorporated in their report, but I want to avoid the disagreeable consequence pointed out by the gentleman from Mifflin (Mr. Andrew Reed.) I agree that the language of the section is equivocal and might, perhaps, raise the question which he suggested. It is always desirable to avoid litigation and doubtful questions if you can. Now, the idea of this amendment is that these railroad officers and employees shall not combine to transport for their own advantage to the sacrifice of the stockholders and of the public. That is the evil, that they combine and form these inside rings, inside associations. You want to exclude and forbid that without, at the same time, preventing them as individuals from carrying home to their families a barrel of flour or any articles for their own use. You want to prevent the combination without impairing the rights of individuals.

My friend on the left (Mr. Armstrong) offered an amendment which I thought met that object, but the Convention did not adopt it; they voted it down. I desire gentlemen to possess themselves of this subject. We are all in favor of the principle contained in this report. It is only a question of how that principle shall be expressed. We around here, in this part of the Hall, think that the form in which I propose it is decidedly better

than the form in which it is expressed in the section.

I hope, therefore, the amendment will be adopted as simply a preferable mode of expressing the same thing.

Mr. EWING. Mr. President: If the proposition of the delegate from Philadelphia covered all the ground that is in the section, it is certainly much shorter and better; but I rather think it does not. It prohibits the formation of companies and associations, but I doubt very much whether it prohibits the formation of a private firm composed of officers or directors of the railroad company, but at any rate it does not prohibit an individual from engaging in the transportation business. For instance, the president or vice president or superintendent of a railroad could, under this amendment, engage in the business and control the entire transportation of the road. I think, therefore, the amendment is a little leaky. If the mover would modify it so as to prevent this result, I should like to vote for it.

Mr. WOODWARD. I do not think there is much in that. In the first place, I do not think it is a supposable case. I do not believe individuals are going to engage in the transportation business in this way. In the next place, the Legislature would have power over the matter.

Mr. EWING. I think it is very likely to occur as an evasion, as a mode of getting around this identical article.

Mr. ARMSTRONG. The evil to be corrected here consists in the combination of corporations for business as common carriers over transporting lines combining to make profit out of transportation against the public interest and in sacrifice of the rights of the stockholders in the railroad or canal line. I do not believe there is any danger of sufficient magnitude to justify us in making it a constitutional provision which shall prevent a mere individual from transporting goods over a line of which he may happen to be an officer or director. The amendment now offered by the gentleman from Philadelphia I believe covers the entire ground fully, and has the advantage of being so distinctly expressed that its interpretation cannot be doubtful. I think there is not much to choose between the original section as it stands and the amendment, except in point of precise expression. I think the amendment covers all that is at all important for us to prevent.

With these views, I very heartily endorse the amendment proposed and hope it may be carried.

Mr. BUCKALEW. The general form of this amendment is an improvement on the original section in point of condensation; it is much shorter, and if it were modified in two particulars, I should very cheerfully vote for it. It differs from the section in two very important respects. In the first place, it is confined to lines which are owned or worked by a company. It does not include lines which are leased by a company, but not actually worked by it. That may be a very common case. A company may lease lines of improvement and sub-let them, and yet be actually, substantially the owner of those lines. That difficulty could be met by the insertion of the word "leased," so that the amendment would read, "owned, leased or worked." Then it would correspond with the original section.

Mr. WOODWARD. I will modify my proposition by inserting the word "leased" after "owned."

Mr. BUCKALEW. That suggestion, then, is accepted. There is one point, however. The original section was very carefully drawn by a very able member of this Convention, a gentleman from the city of Philadelphia not now present, (Mr. Bullitt,) and the intention was to exclude entirely from the business of common carriers upon its works, all officers or employees of a railroad or canal company. It was not so much directed to the particular kind of association or incorporation transacting business on the line, as it was against the *business* of common carriers over the line, and the section was complete and without imperfection for the accomplishment of that purpose. The amendment that is now offered only prohibits companies and associations; I believe those are the words. I agree with the gentleman from Allegheny (Mr. Ewing) that that does not necessarily exclude a simple partnership. I think the term "association," although in a general sense it would include partnerships, in its legal signification does not include them, and certainly it would not include individuals. Now, a single individual, an officer of a railroad company, might carry on the business of a common carrier on a railroad line to the extent of perhaps one-half the whole business transacted on it, and a partnership

also could. It may not be a common case; yet it is a possible one. Gentlemen will remember that a particular firm, the firm of Bingham & Dock, at one time transacted a great part of the transportation business of the public works of this State, at least upon the Philadelphia and Columbia railroad and the connected improvements.

This amendment, therefore, is materially different from the original section drawn by Mr. Bullitt, if not clearly excluding the business of common carriers in the hands of partnerships and individuals, and in that respect it is inferior to it in my judgment. I am in favor of excluding the officers of a railroad company from engaging in the business of common carriers on its line. That is exactly what the original section is, that is what this amendment does on, in an imperfect degree. It only excludes them from becoming parties in an incorporation or association engaged in the business of common carrying, and is defective in that respect.

The PRESIDENT. The question is on the motion of the delegate from Philadelphia (Mr. Woodward.)

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

Mr. CURRY. I second the call.

Mr. HAY. It seems to me that there are two very different objects contemplated by sections seven and nine of this article, and the argument which has been made here upon the amendment to section seven has been largely addressed to section nine rather than to section seven. Section seven is simply a prohibition against the directors, officers and employees of railroad companies engaging in the business of common carriers over the works of which they are managers. Section nine is a prohibition against discriminations being made in favor of any transportation company, whether composed of officers or strangers. The object of the sections are radically different. The amendment which is proposed makes section seven essentially the same as section nine, and the whole object of section seven would be lost by its striking out. A prohibition against individuals who are managing a railroad or canal company, engaging as common carriers in the transportation business over the line of the works of the company of which they are officers; should certainly be retained in this article; and this is the only section which effectually secures the public

against such interference against their interests. All freights and passengers should be transported over railroad and canal companies' lines at equal rates; and officers, managers or employees of such companies ought to be prevented from forming themselves into companies or associations for the purpose of carrying freight over the lines which they themselves manage and control, to the injury and detriment of the general public. This change proposed ought not to be made, but the section left as it is in full force and effect.

Mr. COCHRAN. This section as it appears in the article was not prepared or considered in this form by the Committee on Railroads at all. It was introduced, as has been stated already this morning, and as I stated yesterday, by a gentleman from Philadelphia (Mr. Bullitt) on second reading.

When the amendment was offered by the gentleman from Philadelphia (Mr. Woodward) yesterday, to whose opinions and views I am always very much disposed to defer, I was really strongly inclined to think that the amendment was better than the section, but on the whole, after what I have heard this morning and after the consideration I have been able to give it, I believe it safer to abide by the section, which, although it was introduced, as I said before, not by the committee, was certainly very carefully drawn, and I apprehend it covers more ground than that which is covered by the amendment now offered. And that ground is very important in the opinion of many members of the Convention, and I think it is very important that no private transporter should be brought to face the competition of the individual officer of a railroad company undertaking to act as a common carrier on his own line. There is where I think the amendment is unfortunately defective, and I hope we shall stand by the section as originally drawn.

Mr. J. W. F. WHITE. I ask to be excused from voting on this article, being paired with Mr. T. H. B. Patterson, of Allegheny, who would vote for the whole article and I against a good part of it.

The question being taken by yeas and nays, resulted as follow, viz:

YEAS.

Messrs. Addicks, Ainey, Alricks, Armstrong, Baer, Bannan, Barr, Beebe, Black, Bowman, Boyd, Brodhead, Broomall, Cor-

son, Curry, Darlington, Davis, Dunning, Elliott, Fulton, Green, Guthrie, Hanna, Hunsicker, Lamberton, Lilly, Mann, Niles, Palmer, H. W., Parsons, Purviance, John N., Reed, Andrew, Rooke, Runk, Smith, Wm. H., Struthers, Wetherill, J. M., Wetherill, Jno. Price, Wherry and Woodward—40.

N A Y S.

Messrs. Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bartholomew, Biddle, Bigler, Brown, Buckalew, Calvin, Campbell, Carter, Church, Clark, Cochran, Corbett, Curtin, De France, Dodd, Edwards, Ellis, Ewing, Finney, Funck, Gibson, Gilpin, Hall, Harvey, Hay, Hazzard, Hemphill, Horton, Howard, Kalne, Knight, Landis, Lawrence, Lear, MacConnell, MacVeagh, M'Clean, M'Culloch, M'Michael, M'Murray, Mantor, Metzger, Minor, Mott, Palmer, G. W., Patterson, D. W., Patton, Purviance, Sam'l A., Reynolds, Smith, Henry W., Stanton, Stewart, Turrell, Van Reed, White, David N., Wright and Walker, *President*—61.

So the motion was not agreed to.

ABSENT.—Messrs. Achenbach, Barclay, Bardsley, Bullitt, Carey, Cassidy, Collins, Craig, Cronmiller, Cuyler, Dallas, Fell, Heverin, Littleton, Long, M'Camant, Mitchell, Newlin, Patterson, T. H. B., Porter, Pughe, Purman, Read, John R., Ross, Russell, Sharpe, Simpson, Smith, H. G., Temple, White, Harry White, J. W. F. and Worroll—82

Mr. LILLY. I move to go into committee of the whole for the purpose of striking out the tenth section. It is not necessary for me to say a word on this motion. The subject is thoroughly understood, and I hope the Convention will at once vote upon it.

Mr. LANDES. I call for the yeas and nays.

Mr. HAY. I desire to say that having previously voted against the insertion of this section I shall now vote to strike it out. I am heartily in favor of the idea that is contained in the section, but I believe it to be entirely out of place in the Constitution of this Commonwealth, and shall vote to strike it out.

Mr. CAMPBELL. I hope the section will not be stricken out. I aim at an abuse that has become in this Commonwealth a frightful one, and if we can in any manner do away with that abuse in the Constitution we should do so. The adoption

of this section will remedy it partially at least, and therefore I hope the section will not be stricken out.

Mr. BERDE. Free passes are granted generally to the public officers of the State, judicial and otherwise, and to their friends whom they can influence. Now, sir, bribery is defined to be "a gift which blinds the eye and perverts the judgment, but the receiver must be a public officer and the giver must be a party who has an interest in his official conduct." I leave the Convention to the interpretation and application.

Besides, this system makes a class distinction and is injurious in every aspect in which it can be viewed. I therefore hope that the section will be retained.

Mr. KNIGHT. Mr. President: The object of this Convention, seems to be to make great reforms in the management of railroads in this State. In my judgment, if there is any particular reform required, it is in this very business of free passes. We all know very well, at least it is safe to assert, that passes generally reach the pockets of those who are least entitled to them. Stockholders of railroads seldom apply for free passes, but the most frequent applications for them come from those who are supposed to be influential; members of the Legislature, who are allowed their mileage by the State, judges of the courts, who also receive their mileage from the State, members of Congress, city, borough and township authorities, as well as some other parties connected with railroads not only in this State, but throughout the whole country.

I am not particularly wedded to this section as reported, but I think it necessary the Convention should insert some provision here to prevent the continuance of this abuse. If you go into a railroad office you will see a string of people there who have no meritorious claim asking for free passes, and the time of the officers and directors is to a great extent taken up in answering applications for free passes. A stage coach does not issue passes. Steamships as a general rule do not issue free passes. The first resolution that was passed by the American Steamship Company, after its formation, was that there should be no free passes issued without the unanimous consent of the directors; and before the adoption of that resolution, scores of applications for free passes to cross the Atlantic were made, and every imaginable argument advanced.

Besides, sir, this system brings about a state of affairs, in my opinion, improper and injurious to the stockholders. Nearly all the prominent railroad companies in the State have special palace cars for their president, vice president, board of directors, and superintendent. When they go, they start generally loaded with free passes, and are not only attached to general trains but with special trains, to the great injury of the stockholders and to the great risk of life by collision.

Mr. President, these are plain facts. If you are going to reform railroads, if you want to do something that will give the stockholders of railroad companies something more than the mere crumbs that fall, strike at the root of a flagrant evil, and do away with a practice which is costing at least one railroad in this State half a million of dollars a year.

Mr. HUNSICKER. There is entirely too much piety in this section for me. It is the assumption of too much virtue. I do not think this Convention possesses it. If I am not mistaken, nearly every member of this Convention has a free pass in his pocket now, and if I am not misinformed the delegate from Philadelphia (Mr. Knight) himself distributed passes for us to visit Cape May some time ago.

The point is just this: The railroad companies have this matter entirely within their control; no railroad company in this State is required by law to issue any free pass to anybody; and if they see fit to rob their own stockholders by issuing free passes to persons who ought not to have them, that is their own look out. For the railroad companies to say that they cannot escape issuing free passes, is to admit that they issue free passes for the purpose of corrupting those who are in public life. I therefore trust that the good sense of this Convention will prevail and this useless section be stricken out.

Mr. BAER. Mr. President: For one, I hope section ten will not be stricken out. The sessions of this Convention have already verified the wisdom of the section. If that section had been in the old Constitution, the labors of this Convention would have been completed three months ago. There would not have been clamor after clamor here to secure a quorum in consequence of the members constantly running home; they would have been here to discharge their duties; but in consequence of their having free railroad passes, we have frequently found our-

selves without a quorum. The same remark applies to the Legislature when it is in session. I trust that the section will remain as it is. I believe it will do more to prevent evil influences than any other section in the article. The newspaper press will possibly speak out in a different tone when the editors do not ride free. Members of the Legislature and politicians will be more independent. Men will act upon principle, and not because they are bought by the paltry consideration of a railroad ticket.

Mr. BUCKALEW. I do not intend to prolong the debate on this subject, as I spoke upon the section when it was before the Convention on a former occasion, but I desire to make one point before we dispose of the subject. I take it for granted that the Convention will retain this important section, and, therefore, debate in its favor is not strictly necessary.

But, sir, we are now informed by a gentleman on this floor of great intelligence with reference to our business interests, that the cost of the pass system to one railroad company amounts to half a million a year. I think it is a reasonable estimate to say that the cost of these passes issued in the Commonwealth, taking all the railroad transportation together, must exceed two millions a year. Let us say \$2,000,000 a year.

Now, sir, these passes are gratuities to particular individuals, favorites of the companies, and they are also gratuities to those who impose themselves upon the companies and compel them to give them passes. A large class of that sort of passes are issued as every one very well knows.

Now, sir, the cost of \$2,000,000 a year is levied on the stockholders of these railroad companies, and what is the result? It is that \$2,000,000 which the stockholders lose in the way of passes are levied on the general community, upon the passengers, transporters and producers of the State; and so it is equivalent to a tax of \$2,000,000 upon the mass of the people. You cannot give these free passes and impose this loss upon the stockholders of these companies without a certainty that the whole amount of this expense will be levied upon the general community.

Now, I grant you there are reasons against interposing in this manner in the business of railroad companies. Some gentlemen may think it is rather a small business for the great Commonwealth of Pennsylvania in its Constitution to prohibit a railroad company from giving a

little pass to ride fifty or one hundred miles now and then. But I say this matter does not stand upon any individual considerations or upon any small points of that kind. It stands upon the broad question of the general policy of the conduct and management of our railroads. Shall there be several millions of dollars taken from the stockholders in the way of gratuitous passes and an equal tax be levied upon the whole community?

Mr. DUNNING. Mr. President: From the discussions that have taken place in this House heretofore in connection with railroads, we would be led to believe that railroad companies were able to protect themselves. In truth, the weight of the argument has been that they are great oppressors. If we are to believe half that has been said about the incorporated railroad companies of this Commonwealth, we must believe them unworthy almost of a place in the State or nation. Now, sir, I do not believe that the railroad companies generally of the Commonwealth will thank this Convention for adopting a section which makes it impossible for them to issue a pass if they choose to do so. This section says they shall not do so, and if they think proper to issue a pass it is made a penal offence. I do not believe any railroad company in this Commonwealth wants to be put in that position. If they choose to issue a pass they should have the privilege of doing it, and I am perfectly willing that they should do it in every case where I am interested.

Mr. DE FRANCE. I hope this section will not be stricken on. As a general rule, passes are never issued to any person unless the railroad companies expect to get something back for them. I never had the offer of a pass except when I was in the Legislature and when I came into this body.

It may be said that this is legislation. It may be legislation; but, sir, how do you expect ever to get the Legislature to remedy this evil when every member gets from twenty to thirty passes apiece in the year if he needs them, over all the railroads in this State? If we resort to legislation at all, this is an evil that we ought to remedy in this way.

Mr. BIGLER. I shall vote against this motion to strike out the section for a number of reasons, but especially for the reason assigned by the gentleman from the city (Mr. Knight.) We are about holding railroad companies up to a strict accountability, to the letter and spirit of

their charters as near as we can, to reform great abuses; and whilst we are engaged in that work I cannot see how we are to look over this particular matter, in which it is confessed there has been marked abuse.

Then, again, another consideration is a reason for some kind of law on the subject. For so long a time has this practice been indulged that it is virtually impossible for a railroad company to extricate itself from the power and influence that surrounds it and demands these favors.

Then, again, in the line of thought suggested by the gentleman from Somerset, I shall vote for this section because of the damaging influence of free passes on the industry of the country. Men get free passes, run all over the country and waste their time, instead of remaining at home and attending to their business. I do not know how often I have heard men who held free passes lament because they had a free pass, for the reason that they had gone over the country, around from place to place, and spent three or four times as much money unnecessarily as they had saved.

But, sir, the grave reason for adhering to the position of the Convention on this subject is that which was named by the gentleman from the city; we ought to reform this abuse if we undertake to reform others.

Mr. HOWARD. Mr. President: Some such provision as this ought perhaps to be inserted in the Constitution. I certainly shall vote for it, but at the same time I can see no use in this section as it now stands. What is the use of a section like this without any penalty whatever attached to it. In order to make this worth a straw, you have got to have the Legislature say that some specific penalty shall be attached to a violation of the section. This Constitution will not execute itself. You have attached no penalty; you have simply said they shall not issue free passes.

Now, if you hear a man is going to a railroad office to get a pass you cannot stop it unless you go into court, file a bill in equity, and get an injunction and have it served on the railroad company before they can issue the pass. That will be about the way it will work practically. They can issue just as many passes as they please under this section, and there is no penalty at all against it. There was a penal section attached to this article

when it came from the committee, but that section has been stricken out.

Whether this section, if adhered to by the Convention, is worth anything at all for the protection asked by the delegate from Philadelphia to the stockholders will depend entirely on the Legislature hereafter. I am willing to go as far as any person for the purpose of protecting the stockholders, but the way this stands now it would operate merely as a shield to the companies; they can refuse to any man they do not wish to give a pass and give it to everybody they are willing to serve. That is precisely how it will operate. I hope we shall not perpetrate any such farce as this. If we intend to prohibit the issuing of free passes let us say it shall be a forfeiture of their charter to do it, and let the delegate from Philadelphia offer that amendment and I will vote for it; but I have no idea of a section merely as a shield against persons that are distasteful to the companies. They can say no to some when they can issue as many as they please to other persons who are willing to become subservient to them or work for the advancement of their interests. A bold proposition of that kind means nothing at all, and it would be right to strike it out unless the delegate from Philadelphia, who offered it to protect the stockholders, is willing to insert a penalty.

We all know the virtue of the law consists in the penalty. It is no use without a sting. Men do not obey criminal or penal laws from mere love of it. It is because there is a penalty attached to its violation. All law, human and divine, that is worth a cent, says if you do so and so you shall suffer such and such penalty. Now you prescribe no penalty. As it stands it is a simple humbug.

Mr. CURTIN. Mr. President: I can scarcely think that the declaration in the Constitution that free passes shall not be issued will not be effective. If the Legislature choose to impose a penalty for the violation of that principle of the Constitution, they can do it at their pleasure. It would be almost impossible for this Convention to put in detail all that they prohibit or all that they permit, and then prescribe the punishment and the manner of administering the punishment for a violation of the principle of the Constitution, or the rewards to those who obey it. Here is a simple, plain declaration that free passes shall not be granted by railroad companies.

Mr. CORSON. It does not say that.

Mr. CURTIN. It does say so.

Mr. CORSON. It is that no persons but officers and those employed by the companies shall have free passes.

Mr. CURTIN. Well, those employed on a railroad have to travel on it, of course, to attend to their ordinary business. It prohibits the railroad companies from giving passes to members of the Legislature, and surely, if there is any one subject upon which this Convention has been especially united, clear, emphatic and conservative, it is as to the future morality of the Legislature, and if there be any means by which that morality can be approached and corrupted more than another it is by the railroad companies giving to the members free passes for themselves and as many as they please for sale to others; and it is not very pleasant that the railroad companies of the State, having wrongs to redress, should be brought by the citizen before courts that are itinerant, and their itineracy always at the expense of the railroad companies, suitors before them. I have no idea that it would have the least effect on the mind of a judge of the Supreme Court, but for a man who gets a moderate salary and has not an ample fortune, to travel to and fro through the State, free of expense, to attend to his judicial duties or to his summer recreation when it is too hot to sit on the bench, makes him feel kindly. It is human nature; and if the judge would not feel kindly to the company that gives him the means of travel to his place of business and for his summer amusement and recreation, the milk of human kindness must have been extracted from his heart; he is no more a man. Justice is blind, it is true; but while justice is blind I would rather that justice would not have a free pass over the railroad which may come before him for judicial action. The goddess of justice was not made a deity exactly for the modern temptation of free passes over railroads, unknown in the classic age.

I object to taking this section out of the Constitution for another reason. The members of this Convention can get free passes. Of course we can, and certainly, from the character of this article, they have not influenced us in our action against railroads in the least, [laughter,] for while we travel on free passes many of us, and some of the members reject them from motives of delicacy, here is an article that takes the very bowels out

of the railroad companies of the State, and subjects such corporations to coactive restraints and heavy penalties for violations of them. Now, the delegates to this Convention must remember that the people of the State are not as we are.

Mr. MACVRAUGH. It only takes the bowels of compassion out of them. [Laughter.]

Mr. CURTIN. That is a very good word. "Compassion" will do; it mixes very well with "bowels"—better than "brains." [Laughter.] It would be very hard to assemble one hundred and thirty-three gentlemen in Pennsylvania again in a Convention like us who would be insensible to such influences. We are not affected by them, it is true; but still we can get free passes and we are in that position in life that we can get them in future. The members of the Legislature can get free passes; the members of your city councils can get free passes; the judges of the Supreme Court can get free passes; the judges of your court of common pleas can get free passes. The man of influence, position and wealth can get a pass; but the man who is not able to pay his railroad fare may sue in vain for such an indulgence from a railroad company. I am opposed to the system, because it is at the expense of the stockholders without their consent. It approaches the officer of government in his place with the blandishment of a corporation; and those soulless creatures, the corporations, of which we have heard so much here, should not be transferred into supplicants to the bench or to the Legislature or to this Convention.

I am opposed to taking out this section, because it gives to the railroad companies the right to take from their stockholders a part of the earnings of the road, and taxes to the same extent the travel and transportation of those who have not passes. I am opposed to it, because it acts unequally and unjustly inasmuch as the man who can pay for his ticket can get a pass, and the man who is unable to pay cannot get one. I trust this Convention will adhere to this section of this article if they should abandon all others.

Mr. WOODWARD. I want to say a word, as judges have been alluded to in this connection. An individual comes before a court of justice as a suitor, with a corporation, a railroad company against him. The cause is tried; the evidence is heard; and the law of the land requires the judge to decide the cause in favor of the rail-

road company. He has their pass in his pocket. Now, such is human nature that you never can persuade that individual against whom the cause was rightly decided that that pass has not had its influence on the judge's mind. He goes home and tells his family that he lost the cause by the judge being bribed, and he will tell his neighbors so.

Sh, pardon me for relating an incident, and I believe it is the only evidence of old age in me. I was sent once under a special act of Assembly to Cambria county to try an action of ejectment, the parties to which bore the obscure names of Adams and Jackson. [Laughter.] The cause was tried. There was no corporation there and no passes. The parties were both individuals. The cause was carefully tried and decided in favor of Jackson. When it was over when the whole matter was settled, the stage not coming along, Mr. Jackson having a very comfortable buggy, offered to carry me down to Hollidaysburg in his buggy, and in my innocence I got in and rode with him. Mr. President, that thing lived in the memory of that neighborhood, and in 1868 it was demonstrated clearly that I had been bribed by Jackson. [Laughter.]

One other incident. I once heard a gentleman whom I will not name, because he is not a member of this body, tell the Supreme Court in the argument of a case that the cause below had been decided against his client and in favor of a railroad company by a judge who had the pass of the railroad company in his pocket when he decided it; and every judge of the Supreme Court to whom that argument was addressed had a pass of that same company in his pocket. [Laughter.]

Now, fellow-Pennsylvanians, is this right? Is this decent? Ought we not to lift our judiciary at least above such suspicions? Heaven knows they are subject to sufficient reproaches and suspicions let them do the best and walk the straightest they can; but to send them out around the country with pockets full of railroad passes is not right.

Since I am on the confessional I may as well say that I refused to receive the pass of the Pennsylvania railroad company until all the other railroad companies of the State sent me theirs. I said: "If this thing is to be done at all, it must be a general thing, a regular system; sometimes one railroad company is lawing

another railroad company, and I must have the pass of both companies in my pocket or neither. [Laughter.] The consequence was that railroad companies gave us passes who had never done it before. They made it a general system; they all sent us passes.

Mr. President, it is a dangerous example; it ought to be abolished, and I hope the section will be adopted, and I trust it will be done by a very large and overwhelming vote.

Mr. ARMSTRONG. Mr. President: I have had some doubts as to the propriety of introducing this subject into the Constitution, but upon reflection I have concluded to vote for it. It is very often said that no member of the Legislature, and no member of the courts, will be influenced by the fact that he has received the courtesy of a pass; but the Supreme Court have not so held the question. It will occur to the mind of every lawyer here that there is endorsed upon the back of every free pass an agreement on the part of the holder to exonerate the company from any liability by reason of any injury which may occur to the passenger. This agreement has been set up by railroad companies in defence against actions for injuries received, and the Supreme Court have held that the pass is not a mere gratuity, but that it is based upon a consideration, and that consideration is kindness and good will towards the company. There has been some diversity of opinion on that question, but it has been so held.

Mr. CUYLER. If the gentleman will pardon a remark, in the case of *Derby vs. the Reading railroad company*, where Mr. Derby, of Boston, was, in company with Mr. Tucker, the president of the Reading railroad, on a special engine, Mr. Derby, notwithstanding the agreement, sued and recovered three thousand dollars damages, and the Supreme Court of the United States sustained the action.

Mr. LILLY. I should like to ask the gentleman from Philadelphia a question. Did Mr. Derby hold a pass of the Reading railroad company. I understand he did not.

Mr. CUYLER. He rode free.

Mr. ARMSTRONG. He rode free upon the road, but whether upon a pass I cannot say. The Supreme Courts of various States have held that passes, with such endorsement, did not exonerate the companies from liability, and I understand

such to be the law. It has been so held. The reason why it is so held is, that the pass is not a mere gratuity but is based upon a consideration, and that consideration, if it be a consideration at all, lies at the very foundation of public, judicial and legislative integrity. It is an assumption that the pass will in some manner influence a favorable consideration of the interests of the railroad company. I believe that cutting up this whole system of passes will not only prevent a great abuse upon the stockholders of the roads, but will shorten the sessions of the Legislature; it will quiet the apprehensions of the public mind as to how far the Legislature and the judiciary are or are not influenced by considerations of this kind.

If it were a question merely of the effect of passes upon the purses of the corporations alone, I would not be in favor of inserting it in the Constitution, for they can take care of themselves; but when it rises to a question of public capacity and becomes a question which concerns and affects the entire community and is striking at the public confidence in the integrity of public officers, it becomes a question of vastly greater consideration than what may be the interest of the stockholders of a railroad company.

For all these reasons I believe as a matter of sound public policy the prohibition ought to be inserted in the Constitution, but I would prefer that it should be limited to the public officers of the State and to all who exercise offices of public trust and profit.

Mr. LILLY. I did not expect to take any part in this discussion, nor to have the Convention detained by the motion which I made to strike out this section. When I made the motion I supposed the Convention would strike out the section at once; but this debate has gone on at great length. I only rise now to correct the assertion made by the gentleman from Lycoming about the case of the Reading railroad, to which he referred. Mr. Derby did not ride on a free pass; he did not ride on a regular train of the Reading railroad company; he rode on a little engine known as the Ariel, as the invited guest of the president of the road.

Mr. ARMSTRONG. I did not intend at all to limit my remarks to the case cited, but to state a general principle which the courts of all the States have sustained.

Mr. LILLY. That may be; but I wanted to correct the gentleman's history as to that matter.

Now, as to the statement of the gentleman from Philadelphia (Mr. Knight) as to the extent of free passes; although he may figure it up to be \$2,000,000, I contend that the Pennsylvania railroad company has not lost anything like that amount of money, because the trains would go alike whether there were any free passengers on board or not.

I go on this broad principle: That I have a right to ask a gentleman to ride with me in my carriage, and I do not think you have the right to prohibit me from doing so; and I would put railroad companies on the same platform exactly that I am on myself. They have a right to ask anybody to ride in their cars that they see proper to invite. If they abuse that privilege, they are responsible to the stockholders. If the directors give free passes when they ought not to do it, the stockholders have a remedy by turning them out at the next election. We should not put in our organic law such a thing as this, providing that a man cannot carry in his vehicle anybody he pleases.

I think this section should be stricken out; and I go further and say that I believe if it is left in there will be thousands of votes more given against the railroad article than there will be otherwise. I think there are many persons who would vote for the article who will vote against it for that very express purpose. Whilst I am opposed to the railroad article in the way it stands, if not altered, and shall vote against it, I think this section is a disgrace to this Convention, and it is an insult to the good sense of the people.

Mr. ANDREW REED. Mr. President: I will not take up the time of the Convention in stating whether the gentleman from Boston, who has been referred to, rode on the Ariel or in a balloon; but I am not in favor of this section as it stands. I cannot see with what propriety we can put a provision in the Constitution prohibiting a railroad company from extending a courtesy to a private citizen, perhaps some poor unfortunate individual who may go from one place to another and is not able to pay his fare. We have, however, a right to take care of the morals of our public servants. If a section should be proposed to prohibit the granting of passes to the legislative, executive and judicial officers of this State, I would vote for it. I think that fair public policy would be sufficient to justify us in doing that. I believe the prohibition of passes to legislators would be of great benefit

not only to the members themselves, but to the State. Legislation would be transacted much sooner, with much more dispatch, and we should take away the feeling that is sometimes needlessly and injuriously raised in the minds of people that members are influenced by these passes. If I get the chance I shall vote for such a section. I shall vote against this section as it stands here now.

Mr. W. H. SMITH. I hope this section will remain as it is. I leave out altogether the question of corruption; I do not discuss it; I cannot believe for a moment that a judge of the Supreme Court would be influenced by a free pass. I hope and believe it has never been so, nor do I believe any legislators have been bought so cheaply as that. I leave out the question of corruption altogether, and I will simply say that by passing this section we can remove a cause of public scandal, for it is a scandal to suppose that a man can be bought with a free pass. I hope it applies to very few; and I do know that free passes have been given to persons who were of no use under heaven to any railroad, because they could not do anything, but they have been given with a lavish hand on any and every pretence. Railroads would like to have us interpose to save them from importunity, and to save them from the expense of this system, which it is said costs them a couple of million of dollars a year. I do not believe it will save them anything like that amount, for I do not believe that the people who travel so much on free passes will buy a ticket once where they travel on free passes ten times, and therefore the saving will not be much, but if the railroads are disposed to protect their stockholders, I think we ought to interfere to help them. I believe this section will give protection to the stockholders. I think it will gratify the railroad managers to be relieved from the importunity for these passes, and therefore I think it ought to be done. I am in favor of protecting the stockholders of railroads as much as possible. In order to protect them we have said that no employees or officers of a railroad shall be interested in a fast line, and I go for this section on the same principle. These fast lines that are run at the expense of the stockholders for the interest of those who are not stockholders, are an outrage upon the stockholders. I would prohibit, as far as we could, these fast lines, the sleeping car lines in which the stock-

holders have no interest, and the granting of free passes; and in all this I am influenced merely and solely for the sake of the stockholders, leaving out (although I think it is a very important consideration) the question of corruption, and how much a railroad pass will buy.

Mr. S. A. PURVIANCE. I hope the section will not be stricken out; but it seems to me that when the Convention has determined not to strike it out an amendment should be made so as to make the clause read in this way: "No railroad company shall grant free passes or passes at a discount to any judicial, legislative, or other officer of the State." So far as regards passes to individuals, that is a matter between the company and the individual. When we forbid the giving of passes to judicial and other State officers that covers the evil that has been pointed out so vividly by his honor, Judge Woodward.

The question being taken by yeas and nays, resulted as follows:

Y E A S.

Messrs. Andrews, Bannan, Bartholomew, Biddle, Curry, Cuyler, Dodd, Dunning, Elliott, Finney, Gilpin, Hanna, Hay, Hunsicker, Lilly, MacConnell, M'Michael, Niles, Reed, Andrew, and Stanton—20.

N A Y S.

Messrs. Ainey, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Barclay, Barr, Beebe, Bigler, Black, Bowman, Brodhead, Broomall, Brown, Buckalew, Calvin, Campbell, Carey, Carter, Church, Clark, Cochran, Corbett, Corson, Curtin, Darlington, Davis, De France, Edwards, Ewing, Fell, Fulton, Funck, Gibson, Green, Guthrie, Hall, Harvey, Hazzard, Hemphill, Horton, Howard, Kaine, Knight, Lamberton, Landis, Lawrence, Lear, MacVeagh, M'Clean, M'Culloch, Mann, Mantor, Minor, Mott, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patton, Purman, Purviance, John N., Purviance, Samuel A., Read, John R., Reynolds, Rooke, Runk, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stewart, Struthers, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price, Wherry White, David N., Woodward, Wright and Walker, *President*—83.

So the motion was not agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Arlicks, Bardsley, Boyd, Bullitt, Cas-

sidy, Collins, Craig, Cronmiller, Dallas, Ellis, Heverin, Littleton, Long, M'Camant, M'Murray, Metzger, Mitchell, Patterson, T. H. B., Porter, Pughe, Ross, Russell, Sharpe, Simpson, Temple, White, Harry, White, J. W. F. and Worrell—30.

Mr. STEWART. I move to go into committee of the whole for the purpose of amending section nine, by inserting in lieu thereof the proposition I send to the Chair.

Mr. BOWMAN. I rise to a point of order, and it seems to me that the gentleman must understand it. It is this: While we had the tenth section under consideration, the gentleman from Allegheny (Mr. S. A. Purviance) was speaking upon the section, and then said he had an amendment in his hand, which he read to the Convention, that he proposed to offer as soon as the question then pending was disposed of. As soon as the vote was taken, he rose in his place to offer his amendment. Now, let us dispose of one question at a time.

Mr. STEWART. I do not subscribe to the views of the gentleman at all. Still, for the purpose of maintaining the order of the Convention, I am willing to withdraw my amendment for the present.

The PRESIDENT. The Chair recognized the delegate from Franklin (Mr. Stewart) first.

Mr. STEWART. I ask that the proposition I offer be read.

The CLERK. It is moved to go into committee of the whole for the purpose of striking out the ninth section, and inserting in lieu thereof the following:

"No railroad company, being a common carrier, shall discriminate between transporters in the rates of freight or passengers on its road by abatement, drawback or otherwise.

Mr. STEWART. It will be observed that the provision which I have offered covers everything that is contained in the first portion of this section nine, and I think has the merit of being more explicit and direct. The second provision in the section, if it has any purpose at all, is intended to invalidate contracts which are inconsistent with the first provision of the section. So far as regards contracts which may hereafter be made, they are invalidated as a matter of course. So far as it is made to affect contracts which are in existence, it is simply issuing a bull against the comet. We do not propose to invalidate those contracts, and that provision is unneces-

sary. The substitute which I have offered, which is virtually the first provision of this section, if adopted, will invalidate all contracts that may hereafter be made inconsistent with it. I think it is ample in its terms. I think it covers everything that should be covered, is more explicit and direct than the section as it now stands, and the last half of the section I regard as utterly valueless. For these reasons I make the motion.

The motion was not agreed to.

Mr. S. A. PURVIANCE. I desire now to move to go into committee of the whole for the purpose of making the amendment which I indicated some time ago, to strike out all of the tenth section after the word "any" in the second line, and inserting "judge, member of the General Assembly, or officer of the State."

Mr. HUNSICKER. I call for the yeas and nays on that motion.

Mr. COCHRAN. I second the call.

Mr. S. A. PURVIANCE. Before the vote is taken I desire to modify my amendment. I propose to strike out all after the word "person" in the second line and insert "holding or exercising any executive, legislative or judicial office in this Commonwealth."

Mr. COCHRAN. I hope this amendment will not be adopted. It restricts the operation of the section to a very narrow compass indeed. I do not advocate this section specially on the ground which was stated here by the gentleman from Philadelphia, who originally proposed it, but the facts which he has stated are nevertheless facts of great significance; and when we hear from those who have opportunity to know that a single railroad company in this Commonwealth has issued passes in the course of a month to the amount of more than two hundred thousand dollars, and in the course of a year to more than half a million, I say it becomes a question of public policy whether this system shall be continued or not.

I admit that it is a very important question to the stockholders of the companies themselves; but that is not the ground upon which the people of this State, in demanding this reform, have placed it. It is that this system operates, first, to give an unjust immunity to certain persons, favorites for some reason or other of the particular corporation, as against others traveling on that road, and also because it has the effect of increasing the general cost of the transportation of passengers in

the State, for it cannot be denied that no railroad company can afford to give such immense sums of money as those I have named gratuitously, without collecting them in some way or other from others who do not enjoy the same immunity. The cost of it at last falls upon the people at large who are transported over the road. It becomes a general charge upon the public, and it is as much, in effect, a tax upon every man who travels on the road as if you were to lay a capitation tax on them for the privilege of riding on the cars.

Now, sir, the gentleman from Allegheny would confine the provisions of this section to a single aspect of the case, to a single method of interfering with the direct operation of the government; but let me say, there are more things done by indirection wrongly than there are done directly. It is not necessary to assert what I do not know of my own knowledge, but it is sufficient to say that this system of issuing passes may be used as a means of indirect influence. It may be used as a means of bringing the influence of corporations upon certain particular classes of men into direct collision with the freedom of the elections of the Commonwealth, for there are men in this State who make politics at the polls and around the halls of your Legislature and elsewhere a regular trade and business, and these men have their influence and they exercise it, and the exercise of it must necessarily be detrimental from the very source and fountain from which it proceeds. It is to cut off this source of corruption, and it is to prevent the general injury which the people of this State complain of in regard to this matter, that I think this section should remain in its full scope and extent as it has been offered and as it stands in the text of this article at present. I hope, therefore, that the Convention will not allow itself to lose the consideration of these other influences which can be brought to bear under a section of this kind in the more narrow scope which would be given to it by the amendment offered by the gentleman from Allegheny. That is a very great evil; but our reform should not stop there. It should go further, not specifically for the purpose of protecting the stockholders of railroads, but for the purpose of protecting the general traveling public and of cutting off all indirect illegitimate sources of influence, as well as direct illegitimate sources of influence, at

which the gentleman from Allegheny proposes to strike.

Mr. W. H. SMITH. I will suggest to the gentleman from Allegheny to modify his amendment, if it be in order, by inserting the words "candidates for office."

Mr. NILES. I would suggest a further modification, to add; "Or members of Constitutional Convention in future." [Laughter.]

Mr. W. H. SMITH. Candidates for office in the future as they have done in the past may obtain free passes all over the State. I therefore hope that the amendment will be modified by adding the words "candidates for office."

The PRESIDENT. It is not in order to modify it now.

Mr. KNIGHT. I trust this amendment will not pass. It opens the door so wide that it will render the section of very little consequence.

The PRESIDENT. There is no danger of it passing. [Laughter.]

The question being taken by yeas and nays, resulted as follows:

Y E A S .

Messrs. Alney, Andrews, Armstrong, Bailey, (Huntingdon,) Bannan, Bowman, Brown, Corbett, Davis, Dunning, Elliott, Finney, Fulton, Green, Hanna, Hazzard, Hunsicker, MacConnell, M'Michael, M'Murray, Niles, Palmer, G. W., Patterson, D. W., Purviance, Samuel A., Reed, Andrew, Smith, Henry W., Wetherill, J. M., Woodward and Wright—29.

N A Y S .

Messrs. Addicks, Alricks, Baer, Baily, (Perry,) Baker, Barr, Beebe, Biddle, Bigler, Black, Boyd, Brodhead, Buckalew, Calvin, Campbell, Carey, Carter, Cassidy, Church, Cochran, Corson, Curry, Curtin, Cuyler, Darlington, De France, Dodd, Edwards, Ewing, Fell, Funck, Gibson, Gilpin, Guthrie, Hall, Harvey, Hay, Hemphill, Horton, Howard, Kaine, Knight, Lamberton, Landis, Lawrence, Lilly, Littleton, MacVeagh, M'Clean, Mann, Manter, Minor, Mott, Newlin, Palmer, H. W., Patton, Purman, Purviance, John N., Read, John R., Reynolds, Rooke, Runk, Smith, H. G., Smith, Wm. H., Stanton, Stewart, Struthers, Turrell, Van Reed, Wetherill, John Price, Wherry, White, David N. and Walker, *President*—73.

So the motion was not agreed to.

ABSENT.—Messrs. Achenbach, Barclay Bardaley, Bartholemew, Broomall, Bul-

litt, Clark, Collins, Craig, Cronmiller, Dallas, Ellis, Heverin, Lear, Long, M'Camant, M'Culloch, Metzger, Mitchell, Parsons, Patterson, T. H. B., Porter, Pughe, Rose, Russell, Sharpe, Simpson, Temple, White, Harry, White, J. W. F. and Worrell—31.

Mr. HOWARD. I move that the Convention go into committee of the whole for the purpose of amending section ten by adding to the end of it these words:

"And any violation of this section shall work a forfeiture of the charter of such company, and the person or officer as well as the person receiving such free pass, shall be guilty of a misdemeanor, fined and imprisoned."

Mr. NILES. I would suggest that the gentleman add "without benefit of clergy." [Laughter.]

Mr. NEWLIN. Good!

Mr. HOWARD. Very well, add that if you think proper.

Mr. NEWLIN. Or any other benefit.

Mr. HOWARD. I have offered this amendment because this section is so entirely different from any other section of the article. It differs also in the fact that it cannot be enforced in any way except by a specific penalty. The other provisions relate to the rights of persons, of shippers. If the Constitution is violated, the shipper can have his action. He can bring an action for damages against the company if he is injured by any violation of any other section of this Constitution. But here is a mere *brutum fulmen*. It is to be observed by the company, or not, just at their good will and pleasure. That is precisely what it means and nothing more.

Delegates say it will have a moral effect. Well, I do not know about this moral effect. I doubt the morality of things of this sort. Some people have an idea that there is morality connected with trade and commerce and things of that sort, but I have always doubted it. I believe if the devil were to-day to start a dry goods store on the corner of Eighth and Chestnut streets, and the angel Gabriel started another store alongside, if the devil sold goods one cent a yard cheaper than he, the devil would get all the custom. I have no doubt about it.

Mr. BOYD. "Business is business."

Mr. HOWARD. Yes, business is business. People buy of the heathen as well as the christian. It does not make any difference.

Now, sir, this section is good for nothing without this penalty, and I hope the delegate who offered it and his friends will all vote for this penalty. Let us understand the thing fairly, that the railroad companies are not to issue these passes at all except as provided by the section, without they incur the forfeiture of their charter. Let us make it strong for them while we are about it.

Mr. CUYLER. It is always great pleasure for me to stand on the same platform with the gentleman from Allegheny, and I am happy to do so in this instance. [Laughter.] I agree with him that the section as it is here written is a simple *brutum fulmen*. It has no sanction; it has no penalty, and can carry with it no weight. If it ought to be in the Constitution, it ought to be put there with something that shall make it valuable. Therefore, if there is to be such a clause as this in the Constitution, I am in favor of making it operative; and if I can add anything in the way of drawing, quartering or disemboweling, or by any other process that will strengthen the gentleman's proposition, I will be glad to do so and glad to vote for it. [Laughter.]

Now, Mr. President, this section, particularly with this amendment added to it, is one that does my heart good. I admire the Roman virtue of this Convention in refusing to accept a free pass, and when I see them following up their courageous action in that respect by writing it into the organic law of the State, I have no words which can express, or over-express my reverence and admiration for those who are in favor of it. [Great laughter.]

Mr. DARLINGTON. I do not suppose this Convention is prepared to accept the wildness of the gentleman from Allegheny. Forfeit a charter, destroy the property of all the stockholders, men, women and children, poor or rich, because an officer of a company should unadvisably issue a pass! Why, sir, the idea of forfeiting the charter of a company because a single officer neglects his duty is altogether farcical. Put him in the penitentiary if you please, but do not destroy the property of others.

Mr. NILES. I desire simply to say that I agree entirely with the mover of this amendment that the section, as passed by this Convention, amounts to nothing. I was one of the few that voted against it. I believed then and I believe now that the section is buncombe, that three-

fourths of the members of this Convention have been riding to and from this city with free passes in their pockets, and I do not intend to go on record in that kind of way. I was one of a few that voted against it, believing that we ought to be consistent and that there is no reason why a future Convention would be any more dishonest than this is; and if we have not been influenced by these free passes in our pockets, it is unfair for us to say that the next Legislature or the next Constitutional Convention will be any worse than this.

But if we are to pass this section let us then write into the law that there is to be some penalty affixed for the violation of it. Therefore, I believe that if this provision is to amount to anything we must affix the penalty.

Mr. HUNSICKER. Please have the amendment read.

The CLERK read the amendment as follows:

To add to section ten these words:

"And any violation of this section shall work a forfeiture of the charter of such company, and the person or officer as well as the person receiving such free pass shall be guilty of a misdemeanor, fined and imprisoned, without benefit of clergy." [Laughter.]

Mr. HOWARD. "Without benefit of clergy!" How did that get there? [Laughter.]

Mr. NILES. That was my amendment, but I withdraw it.

The PRESIDENT. It cannot be withdrawn now. [Laughter.]

Mr. HOWARD. How did it get there?

The PRESIDENT. The gentleman accepted the amendment.

Mr. HOWARD. I said "if such things were proper." Of course no such proposition as that would be proper in this country.

The PRESIDENT. The Chair will state that the delegate from Allegheny certainly did state, "very well, add that."

Mr. HOWARD. I had no idea of putting in any such thing as that.

The PRESIDENT. The question is on going into committee of the whole on the motion of the gentleman from Allegheny, leaving out "without benefit of clergy."

Mr. BUCKALEW. I take it for granted that a stockholder of any corporation covered by this section could apply to a court of justice to have the officers enjoined if they attempted to issue passes

in violation of its provisions, and in addition to that there can be legislative penalties imposed from time to time, as the public necessities may require. This amendment is of course in hostility to the section. If violation of this section is to be visited with the enormous penalty of forfeiture, the confiscation of the property of innocent stockholders, then indeed it becomes our duty to vote the section down. I take it for granted that every delegate who is really friendly to this substantial reform will vote against this amendment.

Mr. HUNSICKER. I desire to just say a word or two. This seems to be a very necessary section, so decided by an overwhelming vote of this body; but it does not go near far enough. The delegate from Philadelphia (Mr. Woodward) gave us an instance where his own reputation really suffered, which would not be at all covered by this section. If I understood him aright—I had some difficulty in hearing him, for his voice was low—he said that when he presided over a trial in Cambria county, he happened to ride free in a buggy after the trial was over, and that fact was afterwards cited as conclusively proving that he had been bribed to give a wrong decision in that case. [Laughter.] Therefore there should be in this section a provision against allowing a judge of the Supreme Court to ride free in any buggy except his own. If the members of this Convention really mean business, if they do really and sincerely believe that the corporations of this State cannot safely be left to the management of their own affairs without a constitutional provision, then they should put something into the Constitution that is not mere idle declamation. It has been demonstrated upon the floor of this House that the section as it stands is nothing at all. It means nothing. It cannot be enforced. There is not even an injunction on the Legislature that they shall enforce that section by proper legislation. It simply declares that these railroad companies shall not issue free passes. But suppose they do, what then?

While I am on this subject, I will say this. Suppose that in time of war there should be soldiers wounded. The railroad companies could not carry these wounded soldiers free over the lines of any of our railways. Suppose there should be a great calamity where the people of a city or of a town should be burned out, the railroad company could not in

such a case transport those shelterless and homeless people to places of shelter. Suppose there would be a pestilence, or a famine, or anything of that kind in the country, it would be utterly impossible, if this section means anything, for a railroad company to carry free any of the parties affected by these distresses. This is reform run wild. It is fanaticism. There is no real solid sense in it, and I cordially agree with the remarks of the delegate from Tioga (Mr. Niles) when he said he believed the section to be mere buncombe. I believe it to be buncombe. I do not wish to stand before this Convention in the attitude of a lecturer or to find fault with it, but I desire to place myself on record as opposed to this unwise, unnecessary and useless legislation.

Mr. BIGLER. I quite agree that if we act on this subject at all, we should act soberly. If we intend to correct what has been regarded as an abuse, it should be done thoroughly. There is nothing clearer than that the section as it stands will not answer the purpose for which it was designed. What does it matter that passes are interdicted, if transportation may be furnished? The easiest thing in the world will be to evade that entire section, and I hope the legal gentlemen of this Convention will take notice of that fact. Why, sir, it reminds me very much of the criticism I once heard from Judge Houston upon an ordinance in my own town which forbade a citizen milking his own cow in front of his own door. The judge would not leave the town until he had denounced the ordinance by saying that if he lived in the town he would drive his cow in front of his neighbor's door and milk her there, which was not prohibited by the ordinance. This section is about as loose, and it needs amendment. I hold in my hand an amendment, which I will read as part of my speech, which I think will meet the case if we intend to put it in real sober form, as for one I do. Then if it be necessary to attach a penalty let that be done. My amendment is to substitute for the tenth section the following:

“Railroad companies shall not furnish or permit free transportation over their roads to any persons except *bona fide* officers and employees of the companies, or persons who are objects of public charity. No transportation shall ever be furnished to any person or persons, either in their own cars or in the cars of other com-

panies, at lower prices than the published rates."

If we intend to insert an interdiction that is to be effective, it must be against transportation and not against issuing free passes. That will not meet the case at all.

The PRESIDENT. The question is on the motion of the gentleman from Allegheny (Mr. Howard.)

The motion was rejected.

Mr. BAER. I move to go into committee of the whole in order to amend by striking out section four and inserting as a substitute the following:

"Rates of fare, freight and tolls of the same class shall be the same to all, and the aggregate amount of charges for a shorter distance shall not be higher than for a longer distance in the same direction."

In explanation of this amendment which I offer, I will state first that this section, about which there is so much complaint, has no merit in it at all. The amendment I have offered would entirely accomplish what is sought to be accomplished by it, and it provides that the rates of fare, freight and tolls shall be the same to all. It puts all men on an equality, and compels railroad companies not to discriminate "in charges for the carriage of either freight or passengers between or against the people thereof."

The second clause of the proposition obviates the objection raised by the gentleman from Philadelphia (Mr. J. Price Wetherill) to that part of the section which prohibits the charging of a higher rate for a short distance than for a longer, inasmuch as it might be made necessary to carry for a few miles at a rate so nominal as to make it utterly impossible. The amendment I have offered requires the sum in the aggregate to be no greater for a shorter distance than for a longer distance. It differs from the section itself, which is construed to mean that charges must be no higher per rate per ton per mile. I have all along, on first reading and on second reading, opposed this section four as it stands, because I thought it might and did imply that railroad companies might charge the same rate per ton per mile for a short distance as for a long distance. I think so still, and for that reason I have offered an amendment which prevents discrimination, and which will enable railroad companies to treat all men equally. If they charge all men alike, it is all that all men should ask. If

they charge no more in the aggregate for a shorter distance than for a longer distance, it is also all that individuals should ask, and it is no more than the railroad companies should give.

I do not propose now to go over the arguments made before. I simply say what I have said, and call the attention of the Convention to the amendment which I believe covers fully what was intended by section four and renders its operation equal.

Mr. MACVEAGH. The Convention certainly does not fully understand this fourth section. I submit to the chairman of the Railroad Committee and to the gentlemen interested in railroad companies that the last clause of that fourth section ought not to remain there. It allows railroad companies to charge more for a short distance than for a longer distance within fifty miles. There can be no necessity for that whatever. No railroad company can desire to charge more for hauling five miles than for hauling fifty. Of course it ought to charge more per mile, but not more in the aggregate.

Mr. J. M. BAILEY. They do.

Mr. MACVEAGH. Well, if they do, they ought not to be permitted to do it. Clearly nobody will argue that any reason can be given in favor of such a charge except to make it the basis of an unjust discrimination against some locality or some individual.

Remember, the proposition is that if they haul a car five miles they may charge more for the five miles than for forty-five. That is the way the article now reads. The gentleman from Somerset offers an amendment which leaves that out, which omits that discrimination. If that amendment is not adopted, I shall move to strike out these words; but I do insist that no argument has yet been given to show why that power should be allowed to the railroad corporations.

Mr. WM. H. SMITH. I do not think the amendment will answer the purpose intended. I would like to see the fourth section changed materially, and when this amendment is passed upon, I shall offer another to strike out the fourth line, and down to the word "distance," in the fifth line, the words to be stricken out being: "Nor make a higher charge for a shorter distance than for a longer distance, including such shorter distance."

When you say, as you do in the first four lines of this section, that railroads shall not "discriminate" against citizens

of this State in the matter of freights and passengers, you have said all that you ought to say. Therefore the words I would strike out are tautologous and altogether too definitive for a document such as we are trying to frame. Besides, they are not as clear as they could be. Moreover, it is impossible that they can be strictly executed, and therefore they will sooner or later be evaded.

It is to be presumed that we shall not decree anything here that is impracticable in itself, and surely nothing that is wrong in itself. And if I say it is impossible to execute what is here ordered, I would qualify that by saying that it will not be carried out because the railroads would lose money on all their local freights, and by all their local freights would mean every pound of goods they would send for two hundred miles from this or any other city, on any railroad chartered by the State, and I suppose our action would hardly affect any railroad not chartered by this Commonwealth. Now, let us examine by the clear light of facts how and why railroads would lose money on their local freights if this order were strictly complied with. I believe that second class freights to Pittsburg, for instance, or to any other principal point in the State, say Erie, are not less than fifty cents per one hundred pounds; that would be about one and a half mills per pound per mile for three hundred and fifty miles, or, to make it plainer, suppose that a barrel of syrup, weighing five hundred pounds, could be sent to Pittsburg or to Greensburg for two dollars and fifty cents. Well, if a companion barrel of syrup were sent fifteen miles away on any railroad, on precisely the terms prescribed by this section, the proportionate freight would be less than eleven cents; if it was sent sixty miles, at the same *pro rata*, it would be forty-four cents, &c., &c.

Now, does any one suppose that the railroads would submit to this sort of freight tariff, if there were any apparently fair or decent way to evade it? By no means. And they *might* make up the freight to what they would claim to be a compensating figure, by charging warehouse fees for the time they had the low-freighted goods in store, or for simply receiving it at their stations. They could do this and probably would. All these railroad people are animated by the sentiments that govern the rest of the human family. They could not charge what

would be a fair remuneration for transportation, but they *could* make it up by charging for storage! But why should we, in this solemn conclave, ordain anything that would make any man or set of men think they had a right to resort to such devices to get fair pay for the labor they must perform.

Mr. President, there is no member here who is more fully convinced than I am of the necessity of restraining by law and Constitution the extreme arrogance of the railroads. They have hoped for everything to result from their enterprises, and they have asked the people to discount their hopes, and to pay them the proceeds in cash. Railroads are, and forever must be, indispensable to the comfort and prosperity of this country. But while their arrogant assumptions must be sternly rebuked, the rebuke must be administered in a practical and not in an ill-tempered way. I contend that the words I would strike out provide restraints and reductions that are not practical nor even possible, and if the subtleties I have hinted at shall be resorted to, they are not desirable. Let us make no ordinances here that will be evaded or disobeyed if we can possibly avoid it. That the passage would be practically a dead letter, as far as saving to the people is concerned, I fully believe, and therefore wish to strike it out.

Mr. President, I would take the liberty to reiterate what I have heretofore said in this place, that this whole railroad subject is a most perplexing one to any man who takes a broad and impartial view of the situation. Notwithstanding the sharp competition of the great railroad lines that bring produce from the west, the producers of food in that region complain that the prices of transportation for long distances are excessive, and here at this eastern extremity of the State men declare that railroad freights for short distances are much too high. These conflicting claims are worthy of our attention in the calm consideration of this great matter.

I hope this amendment will prevail, though it does not go as far as I would go.

The PRESIDENT. The question is on the motion of the delegate from Somerset (Mr. Baer.)

The motion was not agreed to.

Mr. LAMBERTON. Mr. President: I move to go into committee of the whole for the purpose of amending section thirteen, in the second line, by inserting af

ter the word "companies" the words, "except as to their accounts."

I call the attention especially of the chairman of the Railroad Committee to this amendment that I suggest. It will be observed that if the section be adopted as it now reads, it will be an actual division of the accounting department of the Commonwealth. Whilst the Auditor General, under the act of 1811, and all the supplementary acts of Assembly bearing on the same point, has the exclusive supervision of the accounts of corporations and of public officers, if you transfer, by this broad and sweeping declaration, the powers and duties of the Auditor General to the Secretary of Internal Affairs, you also transfer the jurisdiction of the Auditor General over the accounts of these corporations.

Mr. COCHRAN. I think I accord entirely with what the gentleman from Dauphin says on this point; but I have not heard the exact words of his proposed amendment.

Mr. LAMBERTON. "Except as to their accounts."

Mr. COCHRAN. "Except as to the settlement of their accounts."

Mr. LAMBERTON. I think "settlement" would be rather restrictive, because it would not cover the appeals which are provided for under the act of 1811 as to their accounts.

Mr. COCHRAN. I do not see any objection to the amendment, because that part of the jurisdiction ought not to be transferred from the Auditor General's office.

Mr. LAMBERTON. Then by common consent let the amendment be made.

The PRESIDENT. Will the Convention unanimously agree to the proposed amendment? ["Aye!" "Aye!"] The amendment is made.

Mr. BRODHEAD. I move that the Convention go into committee of the whole for the purpose of inserting the following amendment as a new section:

"All the provisions of this article shall apply, so far as they may be applicable, to the organization and management of telegraph companies."

I call the attention of the Convention to the fact that we have done nothing in this Convention as yet which would authorize the establishment of a telegraph company. The article on corporations does not reach the subject; neither does the article on railroads. The limited liability clause, which was stricken out of the article on corporations, would have

admitted of such companies being formed; but so far we have done nothing which will permit companies being formed to construct telegraph lines under general laws. If we leave this to the Legislature we shall never get those laws passed.

My attention was called to the report of the president of the Western Union telegraph company, which was published some week or ten days ago, in which he stated that some seven hundred thousand dollars of what should have been the receipts of the company were abstracted by the dead-head business of the company, business they did for nothing for public officials, for members of Legislatures, &c., throughout the country; and yet he said that that work, which if paid for in cash would have brought them seven hundred thousand dollars, one-third of it going to public officers and public bodies, was money well expended.

Now, I propose, by amending this article so as to allow opposition telegraphic companies to be constructed, to bring them under the same regulations that are applicable in this article to railroads, and to prevent the use of this kind of dead-heading for the purpose of obtaining such legislation as companies may want or obstructing legislation desired by others.

Mr. CUYLER. I am in favor of the gentleman's amendment; but I cannot see why he restricts it to the telegraph companies. Why should not the provisions of this article extend to all carrying companies? Why not include canal companies? Why not include balloon companies, as my friend beside me (Mr. J. M. Wetherill) suggests, for this Constitution is for all time, and we are doubtless on the eve of improvements in transportation? Why should it not extend to the Conestoga wagons? Why should anybody be permitted to carry in the Commonwealth on any other terms than those which are put upon all others? Why shall a railroad company have no permission to issue a free pass, and the man who drives his wagon along the highway have the privilege of giving a lift to some poor school-boy or some sick and weary traveler whom he may happen to meet? Why not carry out our principles to their legitimate consequences? Where are we to stop?

I therefore hope the gentleman's amendment will prevail, and I hope that all individuals and corporations who are similarly affected may be brought

within the healthy, salutary provisions of this noble article.

The PRESIDENT. The question is on the motion of the delegate from Northampton.

Mr. BRODHEAD. I call for the yeas and nays.

Mr. BOYD. I second the call.

Mr. COCHRAN. I wish to say in regard to this amendment that it is very evident—

The PRESIDENT. The yeas and nays have been ordered.

Mr. COCHRAN. I rose before they were ordered.

The PRESIDENT. The Clerk will call the names of delegates.

The CLERK proceeded to call the yeas and nays.

Mr. HOWARD. I rise to a point of order. This matter is not properly before this Convention on the consideration of this article. This article is the work of the Committee on Railroads and Canals, as I understand. This amendment would have been proper when the article on private corporations was up. It seems to me entirely out of place, being offered here. I make the point of order on it for this reason: It is a subject that the Convention have not considered at all, and this idea of making provisions for such great enterprises just upon the spur of the moment, without any consideration, I am opposed to.

Mr. BRODHEAD. In reply to the objection of my friend from Allegheny, as to the point of order raised, I will say that every railroad company has a telegraph line.

The PRESIDENT. The call of the roll has commenced, and the Clerk will proceed.

The CLERK resumed and concluded the call of the yeas and nays, with the following result:

Y E A S.

Messrs. Addicks, Ainey, Baer, Baily, (Perry,) Barr, Bigler, Boyd, Brodhead, Broomall, Carter, Cuyler, Darlington, Davis, Dunning, Elliott, Ewing, Gibson, Green, Hay, Hemphill, Heverin, Hunsicker, Lamberton, Lawrence, Lilly, M'Michael, Mann, Palmer, G. W., Parsons, Reynolds, Smith, Wm. H., Turrell, Wetherill, J. M., Wetherill, John Price and Woodward—35.

N A Y S.

Messrs. Alricks, Andrews, Armstrong, Bailey, (Huntingdon,) Beebe, Biddle, Black, Bowman, Brown, Buckalew, Calvin, Campbell, Cassidy, Church, Clark, Cochran, Corson, Curry, De France, Dodd, Edwards, Fell, Finney, Fulton, Funck, Gilpin, Guthrie, Hall, Hazzard, Horton, Howard, Knight, Lear, Long, MacConnell, M'Clean, M'Culloch, Mantor, Minor, Mott, Palmer, H. W., Patterson, D. W., Patton, Purman, Purviance, John N., Purviance, Samuel A., Read, John R., Reed, Andrew, Ross, Runk, Smith, Henry W., Stanton, Stewart, Struthers, Temple, Van Reed, White, David N., Worrell and Walker, President—59.

So the motion was not agreed to.

ABSENT.—Messrs. Achenbach, Baker, Bannan, Barclay, Bardsley, Bartholomew, Bullitt, Carey, Collins, Corbett, Craig, Cronmiller, Curtin, Dallas, Ellis, Hanna, Harvey, Kaine, Landis, Littleton, MacVeagh, M'Camant, M'Murray, Metzger, Mitchell, Newlin, Niles, Patterson, T. H. B., Porter, Pughe, Rooke, Russell, Sharpe, Simpson, Smith, H. G., Wherry, White, Harry, White, J. W. F. and Wright—39.

Mr. LAMBERTON. I ask unanimous consent to make a verbal alteration in the first section, by striking out the word "individual," in the first line, and inserting, after the word "purpose," in the second line, the words "and individuals," so that the section would then read: "Any partnership or corporation organized for the purpose, and individuals, shall have the right to construct and operate," &c.

Mr. H. W. PALMER and others. Say, "or individuals."

Mr. LAMBERTON. Well, "or individuals."

The PRESIDENT. Is there objection to that modification? The Chair hears none; the amendment will be made by unanimous consent.

Mr. HAY. I move that the Convention resolve itself into committee of the whole for the purpose of amending the fourth section, by inserting in the fifth line, after the word "distance," the words "in the same direction," so as to read, "nor make a higher charge for a shorter distance than for a longer distance, including such shorter distance, in the same direction."

Mr. HOWARD. I hope that will be put in by unanimous consent.

The PRESIDENT. Does any member object?

Mr. BOYD. I object.

The PRESIDENT. The question is on the motion of the delegate from Allegheny, (Mr. Hay,) that the Convention resolve itself into committee of the whole for the purpose of making an amendment to the fourth section, as indicated by him.

Mr. HAY. It seems to me very necessary that these words should be inserted in order to carry out fairly and honestly the real purpose of the section. It is not intended, I am sure, by this section that the same rate of freight should be charged for transportation up grade that is charged for transportation down grade; but unless these words "in the same direction" be inserted, a railroad might be required to charge the same rate of freight in both directions. I might refer to points on the Pennsylvania railroad to illustrate what I mean. Take the case of the three points, Gallitzin, Cresson, and Johnstown, Gallitzin being upon the top of the mountain, Cresson part of the way down, and Johnstown at the foot. A person transporting from Johnstown to Cresson might, it seems to me, under the section as it stands, be charged no more for the transportation of his freight that distance than the company would charge for transporting the same freight from Gallitzin to Johnstown, a longer distance which included the shorter distance, but not in the same direction, while in the one case the cars would run down of themselves and in the other case it would take two locomotives to pull the train up. Certainly the object of this section will not be carried out unless this amendment be made. It was made in committee of the whole, but it was dropped out with other matter, and it ought to be re-inserted.

The PRESIDENT. The question is on the motion of the delegate from Allegheny (Mr. Hay.)

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

The CHAIRMAN. The committee of the whole have been directed to make an amendment to the fourth section. The amendment is made and the committee of the whole will rise.

The committee rose and the President having resumed the chair, the Chairman (Mr. Curtin) reported that the amendment directed by the Convention had been made to the fourth section.

Mr. ANDREW REED. I endeavored to get the floor while we had the matter of the tenth section under consideration, and I do not desire to let it pass away without offering an amendment to it, because I cannot consent to let the section pass without at least an attempt to improve it. I move to go into committee of the whole for the purpose of striking out the section and inserting in lieu of it the following:

"No railroad company shall grant free passes, or passes at a discount, to any member of the Legislature, or to any executive, judicial or municipal officer, or to any other person employed on the public business of the State or of any city or county thereof, either for themselves or for the use of any other person; and the Legislature shall prescribe proper penalties for the violation of this section."

I think this substitute will embrace nearly all the parties whom the Convention are desirous of prohibiting to receive free passes and whose receipt of them would do any detriment to the public interest of the State. If the section be left in the article as it stands at present, there may be cases in which it would work incalculable mischief. Suppose a town or a city is burning; a railroad company would be unable to send a car containing fire engines with men to extinguish the flames, without first exacting their fare. In my judgment, if the section be really worth anything, it would, if strictly construed, apply to such a case or the case that the gentleman from Montgomery (Mr. Hunsicker) put.

Mr. HAZZARD. In the case mentioned, of persons going to assist in putting out a fire, could not a constable or justice of the peace go?

Mr. ANDREW REED. My judgment is that under the section as it stands, a railroad cannot take any person, under any circumstances, for nothing, or at a reduced rate. There may be many cases where it would be expedient to allow persons to be transported free from one point to another.

But, sir, I do not wish to take up time. I submit the matter to the Convention.

Mr. H. W. PALMER, Mr. President: I hope in the contemplation of rare particular cases of supposed hardship we shall not lose sight of the real danger which this section aims to arrest. Apprehensions have been felt that the great aggregations of corporate power in the State and nation have in view not only the sub-

stantial control of all material interests but also the ultimate purpose of controlling the political and governmental departments of the nation. They seek to own State Legislatures and Executives, and through them at no distant day the national Executive and the nation's Congress.

Liberal distribution of favors in the shape of free passes is one of the methods employed to widen influence. They secure the ablest lawyers of the State by liberal fees and inducement of future advancement. They subsidize the local press by judicious use of advertising patronage. They close the mouths of preachers by half fare commutations, and gain the influence of leading citizens in communities by affording them free passage over their lines—and thus erect an influence which enables them to oppress and overcome the people.

Passes are not granted without an expectation of a corresponding return of advantage. When they stuff the pockets of our judges with free passes, neither company nor judge would allow for a moment that a bribe was intended, but in the language of the quotation of which the gentleman from York, who unfortunately is no longer with us, was so fond of using and which is as true to-day as when written two thousand years ago, "a gift blindeth the eye and perverteth the judgment of the righteous." Passes are gifts granted for a purpose, and while the amounts gained by the recipients are not large still they ought not to be received more than other gifts. Let us adhere to the principle upon which this article was framed and not be turned aside from an effort to save ourselves from dangers which wise men warn us are impending.

The PRESIDENT. The question is on the motion of the delegate from Mifflin.

The motion was not agreed to.

Mr. STEWART. I ask unanimous consent to strike out the word "forever" from the third line of section three. It seems to me to be needless. It might as well have "amen" at the end of it.

The PRESIDENT. Will the Convention unanimously consent to strike out the word "forever" in the place indicated? ["Aye." "Aye."] The amendment is agreed to.

Mr. HARRY WHITE. I listened with great interest to the remarks of the delegate from Luzerne, who is always a friend of reform—

Mr. HOWARD. The matter on which he spoke has been disposed of and is not before the Convention.

Mr. HARRY WHITE. I am very much obliged to my friend for the information. I move to go into committee of the whole for the purpose of striking out in the tenth section the words "except officers or employees of the company."

I was going to say when interrupted by my friend from Allegheny that the remarks of the delegate from Luzerne had called my attention to the propriety of making this motion, and on going to the Clerk's desk I discovered that the motion had not been made.

If members of this Convention are in earnest in seeking to strike at what is said to be an evil and to prevent the issuing of free passes, they should make the prohibition sweeping and general; they should make no exception whatever, for it is the exception to the rule which multiplies, in my opinion, the evils that result from the issuing of free passes. If this amendment prevails, the section will read as follows:

"No railroad company shall grant free passes or passes at a discount to any person."

What is the practical effect of striking out the succeeding words, as I propose? The practical effect of striking them out is to prohibit, under any pretence or pretext whatever, the issuing of a free pass. It may be said by some gentlemen in reply to this, "how will the business of a railroad company be conducted without the privilege of allowing their employees, their hands, to be transported from place to place, on a truck or otherwise." I see no practical difficulty in that. I can imagine, however, a practical evasion of the spirit of this section, as it stands, by the selection of an attorney, by the selection of an individual to perform this function or that function in the several counties of the Commonwealth, selecting gentlemen of influence and character, who may be of service to the company otherwise than in the discharge of that particular function. In that way attorneys and other persons of influence will be provided with passes under this exception, and thus you will evade the spirit and purpose of the section itself. I cannot see that there is any practical difficulty about transporting an employee of the company from place to place. A system can be devised by the company of giving increased

compensation by reason of traveling expenses thus imposed on employees.

I hope this amendment will prevail. I offer it in good faith and in the interest of the community.

Mr. COCHRAN. Mr. President: A great many years ago a principle was laid down which I must apply to the gentleman from Indiana, in regard to this particular section of this article. I refer to what was said about "*Tineo Danaos et dona ferentes.*" The gentleman from Indiana has certainly been a steadfast opponent of this section from the beginning to the end.

Mr. HARRY WHITE. And am now.

Mr. COCHRAN. He is now. He had better leave the section in the hands of its friends. The friends of the section think that this is a reasonable exception, and the gentleman from Indiana, who is opposed to the section, lets his zeal outrun the zeal of its friends.

Mr. President, it is unreasonable on the face of it to preclude a railroad company or any other company from the free transportation of its officers and employees over its own works, and therefore it would be unreasonable to adopt the amendment of the gentleman from Indiana.

The sentiment of this Convention has been expressed time and again most distinctly and most emphatically by majorities of more than two to one, on several occasions, in favor of this section in the form in which it now stands, or at least in regard to the substantial matter contained in the section, and I do think we may as well give up this contest on this particular section, and abide by the decision of the large majority of the body so often and so deliberately expressed.

The PRESIDENT. The question is on the motion of the delegate from Indiana.

The motion was not agreed to.

Mr. HEMPHILL. I move that the Convention resolve itself into committee of the whole for the purpose of amending the article, by striking out section six. If gentlemen will turn to section six of the article on private corporations they will find that everything embodied in this section is embodied there. The first provision in section six in this article is in these words: "No incorporated company doing the business of a common carrier shall, directly or indirectly, prosecute or engage in mining or manufacturing articles for transportation over its works." The first

portion of the sixth section of the article on private corporations reads: "Nor corporation shall engage in business other than that expressly authorized in its charter."

The second provision in the sixth section of the article on railroads and canals is: "Nor shall such company, directly or indirectly, engage in any other business than that of common carriers, or hold or acquire land, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business." Section six of the article on private corporations reads: "Nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business."

The remaining portion of the sixth section of the railroad article is: "But any mining or manufacturing company may carry the products of its mines and manufacturing on its railroad or canal not exceeding fifty miles in length." I think there can be no doubt that any mining or manufacturing company would have that privilege and the privilege of doing everything necessary to enable it to carry on its business, just the same as a railroad company, although it is prohibited from going into manufacturing or mining, would have a right to supply itself with cars from its own factory or to dig its own coal for its own engines. I think all the provisions of this section are fully covered by the sixth section of the article on private corporations, and therefore I move to strike it out.

Mr. HOWARD. This section six of the railroad article covers very much more ground than is covered by section six of the article on corporations, and its application is very different. This section in the railroad article is specific and direct; the other is general, and extends to whatever may be mentioned in the charter of the corporation. There might perhaps be something in some of those charters that this Constitution ought to be able to control, and that section would sanction everything in their charter, no matter what it might be.

The PRESIDENT. The question is on the motion of the delegate from Chester (Mr. Hemphill.)

The motion was not agreed to.

Mr. FUNCK. Mr. President: What is the question before the House?

The PRESIDENT. The question is on the passage of the article.

Mr. FUNCK. I call for the previous question. ["No." "No."] The report of this committee—

Mr. DARLINGTON. Discussion is out of order.

The PRESIDENT. Is the call for the previous question sustained?

Mr. BUCKALEW. I hope the gentleman will allow me to move a modification of the seventh section.

The PRESIDENT. Those who second the call for the previous question will rise.

Messrs. Joseph Baily, Baker, Beebe, Boyd, Carter, Church, Finney, Horton, Howard, MacConnell, M'Culloch, S. A. Purviance, Reynolds, H. W. Smith, Stanton, Struthers, Temple, Van Reed, D. N. White, J. Price Wetherill and Wright rose to second the call for the previous question.

The PRESIDENT. The call for the previous question being sustained, the next question is, "shall the main question be now put?"

Mr. HUNSICKER. On that I call for the yeas and nays.

Mr. STANTON. I second the call.

The yeas and nays were taken with the following result:

Y E A S .

Messrs. Ainey, Baily, (Porry,) Baker, Beebe, Boyd, Carter, Church, Finney, Funk, Horton, Howard, Lawrence, MacConnell, M'Culloch, Purviance, Sam'l A., Reynolds, Smith, Henry W., Stanton, Struthers, Temple, Van Reed, Wetherill, John Price, White, David N., Wright and Walker, *President*—25.

N A Y S .

Messrs. Aricks, Armstrong, Baer, Bailey, (Huntingdon,) Bannan, Barr, Bidle, Bigler, Black, Brodhead, Broomall, Buckalew, Calvin, Campbell, Clark, Cochran, Corson, Curry, Curtin, Darlington, Dodd, Elliott, Ellis, Ewing, Fell, Fulton, Gibson, Gilpin, Guthrie, Hall, Harvey, Hay, Hazzard, Homiphill, Hunsicker, Kaine, Knight, Lambertson, Landis, Lilly, Long, M'Clean, Mann, Mantor, Minor, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patton, Purman, Purviance, John N., Reed, Andrew, Ross Runk, Stewart, Turrell, Wetherill, J. M., Wherry, White, Harry, Woodward and Worrell—63.

So the Convention refused to order the main question to be now put.

ABSENT.—Messrs. Achenbach, Addicks, Andrews, Barclay, Bardsley, Bartholomew, Bowman, Brown, Bullitt, Carey, Cassidy, Collins, Corbett, Craig, Cron-

Miller, Cuyler, Dallas, Davis, De France, Dunning, Edwards, Green, Hanna, Heverin, Lear, Littleton, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Mott, Newlin, Patterson, T. H. B., Porter, Pughe, Read, John R., Rooke, Russell, Sharpe, Simpson, Smith, H. G., Smith, Wm. H. and White, J. W. F.—45.

Mr. CALVIN. I move to go into committee of the whole for the purpose of amending section four by striking out in the fourth and fifth lines the words, "nor make a higher charge for a shorter distance than for a longer distance, including such shorter distance, in the same direction."

Mr. President, this clause is entirely unnecessary. In the first portion of the section it is provided that there shall be no discrimination between the people of the State, and that will cover all that is included in this clause. For example, two or three men engaged in shipping stone coal from Latrobe would of course be upon the same level and could only be charged the same rates. If a man were shipping coal in the same direction east from the top of the Allegheny mountains it certainly would be discriminating between the people of the State to charge him more than the man at Latrobe or at Harrisburg. This provision therefore is entirely unnecessary. The clause that there shall be no discrimination between the people of the State covers the ground. I object to the clause for the reason that it implies that they may charge as much for a shorter distance as a longer distance without regard to the difference between the longer and shorter distance. I think therefore the article would be in a better shape and the design of the section would be better carried out by striking out these words, and I hope they may be stricken out.

Mr. J. PRICE WETHERILL. I am very glad that certain members who favor the entire article are beginning now to carefully examine it and find that the shoe pinches in certain directions. Now, the shoe may pinch a little in the direction to which the gentleman from Blair has alluded, for the reason that anthracite coal will come to Hollidaysburg over a longer distance at a lower rate than bituminous coal can come from the Allegheny mountains to Hollidaysburg, a shorter distance, and those who are interested in the bituminous coal near Hollidaysburg are thereby injured because the anthracite coal a little further off is put into Hollidaysburg at rather a

less price. I think the good sense of the members of this Convention, as they examine other sections of the article and find that this thing is going to pinch a little nearer home than they at first supposed, will probably come back to the conclusion that the whole matter had better be left where I think it properly belongs, to the Legislature of the State.

Mr. H. W. PALMER. Mr. President: I am one of those who are in favor of the whole article, and I am one of those who desire to make this article pinch, and therefore I am in favor of the amendment of the gentleman from Blair. The words which he moves to strike out are really an extension of the privileges of the companies. They are a limitation on the law as it now stands. They allow a railroad company to charge the same rate for a short distance as for a long distance. To make it plain, they can charge the same sum for carrying a car of coal from Pittsburg to Philadelphia that they charge for carrying it to Harrisburg. They cannot so charge according to law to-day, because such charge would be discrimination against one customer in favor of another, and it has been decided by the Supreme Court over and over again that such discriminations are not lawful. Therefore, these words ought to be stricken out, because they really enlarge the privileges of railroad companies. I suppose the purpose of this article is to narrow and limit those privileges instead of enlarging them.

The PRESIDENT. The question is on the motion of the delegate from Blair (Mr. Calvin.)

Mr. CALVIN. On that question I call for the yeas and nays.

Mr. LILLY. I second the call.

The yeas and nays were taken with the following result:

YEAS.

Messrs. Baily, (Perry,) Bailey, (Huntingdon,) Beebe, Black, Brodhead, Calvin, Clark, Darlington, Davis, Edwards, Gilpin, Kaine, Landis, Lilly, Long, Minor, Palmer, G. W., Palmer, H. W., Purviance, John N., Purviance, Samuel A., Smith, Wm. H. and Van Reed—22.

NAYS.

Messrs. Ainey, Alricks, Armstrong, Baer, Baker, Barr, Biddle, Bigler, Bowman, Boyd, Broomall, Buckalew, Campbell, Cochran, Corson, Curtin, De France, Ellis, Ewing, Fell, Finney, Fulton, Gib-

son, Guthrie, Hay, Hazzard, Hemphill, Horton, Howard, Lambertson, Lawrence, M'Clean, M'ulloch, Mann, Mantor, Niles, Parsons, Patterson, D. W., Patton, Purman, Reed, Andrew, Reynolds, Rooke, Ross, Runk, Smith, Henry W., Stanton, Stewart, Struthers, Turrell, Wetherill, John Price, White, David N., White, Harry, Woodward, Worrell and Walker, President—56.

So the motion was not agreed to.

ABSENT—Messrs. Achenbach, Addicks, Andrews, Bannan, Barclay, Bardsley, Bartholomew, Brown, Bullitt, Carey, Carter, Cassidy, Church, Collins, Corbett, Craig, Cronmiller, Curry, Cuyler, Dallas, Dodd, Dunning, Elliott, Funck, Green, Hall, Hanna, Harvey, Heverin, Hunsicker, Knight, Lear, Littleton, MacConnell, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Mott, Newlin, Patterson, T. H. B., Porter, Pughe, Read, John R., Russell, Sharpe, Simpson, Smito, H. G., Temple, Wetherill, J. M., Wherry, White, J. W. F. and Wright—55.

Mr. STANTON. I move that the Convention resolve itself into committee of the whole for the purpose of adding to section ten the words, "or except for charitable purposes."

There are a great many very poor persons who cannot pay the cost of necessary travel, and if this section is adopted as it stands, the railroad companies, according to my construction, cannot issue a pass for any charitable object, no matter how deserving. The argument of the gentleman from Montgomery (Mr. Hunsicker) has prompted me to offer this amendment. Should a great calamity fall upon any portion of the State, which would render it necessary to transport a number of stricken people from the scene of their suffering to a place of refuge, it could not be done by any railroad company in the State as an act of mercy, under this section as it now stands.

Mr. KNIGHT. Will the gentleman permit a question?

Mr. STANTON. Certainly.

Mr. KNIGHT. Who would be the judges of the charity?

Mr. STANTON. The officers of the railroad company.

Mr. KNIGHT. Then you would have it in very bad hands.

Mr. STANTON. I would trust them.

The PRESIDENT. The question is on the motion of the gentleman from Philadelphia.

Mr. STANTON. On that I call for the yeas and nays.

Mr. HARRY WHITE. I second the call.

The yeas and nays were taken, and were as follow, viz:

YEAS.

Messrs. Alricks, Armstrong, Baker, Beebe, Black, Broomall, Corson, Ewing, Gibson, Harvey, Hazzard, Hunsicker, Kaine, Lambertson, Lilly, Long, M'Clean, Mantor, Minor, Niles, Parsons, Purviance, John N., Rooke, Ross, Runk, Smith, Henry W., Stanton, Struthers, Turrell, Van Reed, White, Harry, Woodward, Worrell and Wright—34.

NAYS.

Messrs. Ainey, Baer, Bally, (Perry,) Bailey, (Huntingdon,) Barr, Bartholomew, Boyd, Brodhead, Buckalew, Calvin, Campbell, Church Clark, Cochran, Curry, Curtin, Cuyler, Davis, De France, Dodd, Edwards, Elliott, Fell, Finney, Fulton, Funck, Gilpin, Guthrie, Hay, Hemphill, Howard, Knight, Landis, Lawrence, MacVeagh, M'Culloch, Mann, Mott, Palmer, G. W., Palmer, H. W., Purman, Purviance, Samuel A., Reed, Andrew, Reynolds, Smith, Wm. H., Stewart, Wetherill, John Price, Wherry, White, David N. and Walker, *President*—50.

So the motion was rejected.

ABSENT.—Messrs. Achenbach, Addicks, Andrews, Bannan, Barclay, Bardsley, Biddle, Bigler, Bowman, Brown, Bullitt, Carey, Carter, Cassidy, Collins, Corbett, Craig, Cronmiller, Dallas, Darlington, Dunning, Ellis, Green, Hall, Hanna, Heverin, Horton, Lear, Littleton, MacConnell, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Nowlin, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Read, John R., Russell, Sharpe, Simpson, Smith, H. G., Temple, Wetherill, J. M. and White, J. W. F.—49.

Mr. DARLINGTON. I move that the Convention go into committee of the whole in order to amend section five, by striking out all after the word "line," in the seventh line.

The PRESIDENT. The Clerk will read the part proposed to be omitted.

The CLERK read as follows:

"And the question whether railroads or canals are parallel and competing lines, shall always be decided by a jury in a trial according to the course of the common law."

Mr. DARLINGTON. The section as it now stands proposes to prohibit railroad

companies from consolidating their stock or property with competing lines, and declares that the question whether the railroads and canals are parallel and competing lines shall always be decided by a jury under trial according to the course of the common law. It is that last clause of this section that I propose to strike out; and if the Convention will give me their attention for a few minutes I will state the reason why.

The most ordinary mode of deciding the question where a railroad is alleged to be absorbing another is by application to a court to restrain them from doing so. That application is necessarily made to a court of equity to restrain and enjoin them speedily before the mischief is done. Now, that is a right to which every individual citizen can resort to restrain one railroad company from absorbing another. He has the right to appeal to a court of equity, in the first place, for a preliminary injunction, and then for a perpetual one, in order to restrain that company from doing what he alleges is an unlawful or an unconstitutional act.

It is not assumed that such a proceeding shall be participated in by a jury, for that is only in a court of common law. A court of equity will inquire into the allegation by other means than a jury. If there is a question of fact to be decided that question can be referred to a master in chancery, who will hear testimony and report the testimony together with his judgment.

Now, why should not this eminently proper process be retained in order to restrain an illegal and unconstitutional act of any railroad corporation which shall attempt to absorb another? I see no reason why it should not be, and I see great difficulty in the provision that such a question must always go before a jury. We all know that in times of excitement in a community, it will be scarcely ever possible to find a jury unprejudiced enough to decide a question of this kind honestly. A jury might think that another railroad was a competing line when perhaps it would not be. We all agree that the courts are far better judges in matters of this kind, far better qualified to decide these questions than juries. Nay, in another part of the Constitution we have conferred upon the courts, if I recollect aright, the power to do so and have compelled them to take cognizance of and decide facts. Now, are you to restrain the court, aided as it will be, by a

master in chancery, from deciding the fact whether a line is a competing line or not? It is a question at last for a court and for the Supreme Court. I know the objection made to this proposition by the gentleman who introduced the section. It is that you cannot trust the judges. This idea is founded upon a notion that judges are corrupt or corruptible. I do not believe anything of the kind. I do not believe either that our judges are corrupt or that they can be corrupted, and I do not think we ought to put anything in this Constitution which conveys the idea that the whole judiciary of Pennsylvania can be bought. Even if the judges can be bought, it is a great deal easier to buy a jury than it is to buy a judge, and I would not have it said or insinuated in this Constitution that the judges of our courts can be bought. We have been unwilling heretofore to insinuate it, and therefore I hope that the Convention will leave this question of fact to the ordinary courts of justice, and by the adoption of my amendment will eliminate this clause which provides for the submission to a jury from our amended Constitution.

Mr. HOWARD. I do not think that in order to sustain this proposition it is necessary to say anything about whether the judges have railroad passes or whether they have not; or whether they are corrupt, or can be corrupted, or anything of the kind. This whole section presents a question of fact. Whether railroads are parallel or competing lines is a fact to be determined, and not a question of law. Now, by the customs of this country, we try questions of fact by jury, the law being devolved upon the court.

So far as this in any way impedes proceedings in equity, let me say that in Pennsylvania we have no special court of equity. Equity is administered now in our common law courts. What will be the effect of this proceeding? If a proceeding in equity be instituted, where it involves the question of fact, the court would order a feigned issue, and a jury would be called to try the question of fact. That is the only proper way to determine that question, and it would be determined by a jury.

We ought to retain this clause here. I would not regard the section of any great value without this provision. This matter was thoroughly considered by the Committee on Railroads and Canals; it has been considered twice by this Convention, when good reasons were given for its re-

maining in the section. It has been found to be necessary, and I hope it will not be stricken out; there is no reason for striking it out. We have no separate courts of equity, and no question can arise under this section where the judge can not order an issue to try the question of fact and have a jury called.

Mr. BUCKALEW. The Committee on Revision reported this section in the form in which it went to them, because they had no power over it. Their view was that this concluding clause was, to say the least of it, a very singular one. I have no doubt that it is simply a clause of limitation, that it will exclude remedies in equity by the judges of the Supreme Court and by the judges of the inferior courts, and will give a hearing in some form, I do not know what it will be, at common law. I do not know what form of action at common law can be framed to try an issue of the kind. I do not see that this clause of the section would work at all unless you have legislation to carry the provision into effect. You must provide how you shall get your issue up, how it shall be formed, who shall be made parties, and in some manner to bring it to a hearing. There is no common law procedure for purposes of this kind; you have got to provide it specially by statute; and the practical result of this concluding clause of the section will be to prohibit the Legislature from extending any remedy except one by jury trial. Now, I want to allow parties that are aggrieved to go into court and ask for an injunction against the companies who are violating this section and so have summary relief. If the Legislature choose to provide that a jury trial shall be had after an injunction issued, very well. I think, for my part, the clause had better be omitted.

Mr. KAINE. I have not taken much, or, indeed, any part in the discussions which have arisen on the subject of this article, but I do think that the motion of the gentleman from Chester, in regard to striking out this portion of the section, ought to prevail. Of course nothing can be done under it without legislation; and if you confine the Legislature to making provisions according to the common law alone, it will hamper the thing very much. Leave that question open. Let the Legislature provide what kind of remedies and in what courts they shall be tried; whether they shall be tried in a court of equity, whether by an equitable

proceeding, whether by a court and jury, or whether it shall be some other tribunal that may be established by the Legislature for the special purpose of trying things of this kind. We had better not have too much in the Constitution. Leave something for the Legislature, and at any rate do not tie up a provision so important as this is without this clause, so that it will be of no avail.

I hope the Convention will go into committee of the whole and strike it out.

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

Mr. BOYD. I second the call.

Mr. COCHRAN. I hope this motion to strike out will not prevail. As I understand this provision of the section, it simply provides that the question of fact whether railroads are or are not competing lines shall be tried by a jury in a trial according to the course of the common law. What does that mean? Does it mean that the suit must be originally instituted in a common law court? No, sir, it speaks alone of the trial and its incidents; they are to be according to the course of the common law; that is to say, a jury must be in court and sworn, and under the direction of the court render its verdict, and all the incidents of such a trial are to follow. Let you institute your proceeding in equity; asking for an injunction or any other method to question whether or not this section has been violated, and it will require the judge sitting in equity to form an issue and send it to a jury to determine that question. It does strike me that that is the whole of this clause of the section, and it was earnestly desired that the question of fact should be submitted to its proper tribunal, a jury of the country.

Mr. KAINE. Will the gentleman from York allow me to ask him a question?

Mr. COCHRAN. I am done.

Mr. BOYD. The yeas and nays have been ordered.

The PRESIDENT. The Clerk will call the names of delegates on this motion.

The yeas and nays were taken with the following result:

YEAS.

Messrs. Bannan, Bartholomew, Bigler, Boyd, Brodhead, Brown, Buckalew, Corson, Curry, Darlington, Davis, Dodd, Dunning, Edwards, Ellis, Gilpin, Harvey, Kaine, Knight, Lamberton, Mann, Palmer, H. W., Parsons, Reed, Andrew,

Runk, Stanton, Stewart, Wetherill, Jno. Price, Wherry, White, David N., Woodward, Worrell and Walker, *President*—33.

NAYS.

Messrs. Alricks, Andrews, Baer, Bailly, (Perry,) Bailey, (Huntingdon,) Baker, Beebe, Biddle, Black, Bowman, Calvin, Campbell, Carter, Church, Clark, Cochran, De France, Ewing, Fulton, Funck, Gibson, Guthrie, Hanna, Hay, Hazzard, Hemphill, Horton, Howard, Hunsicker, Landis, Lawrence, Long, M'Clean, M'Culloch, Mantor, Minor, Mott, Niles, Palmer, G. W., Purviance, John N., Purviance, Samuel A., Reynolds, Rooke, Ross, Smith, Henry W., Smith, Wm. H., Struthers, Turrell, Van Reed, Wetherill, J. M. and White, Harry—51.

So the motion was not agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Ainey, Armstrong, Barclay, Bardsley, Barr, Broomall, Bullitt, Carey, Cassidy, Collins, Corbett, Craig, Cronmiller, Curtin, Cuyler, Dallas, Elliott, Fell, Finney, Green, Hall, Hoverin, Lear, Lilly, Littleton, MacConnell, MacVeagh, M'Camant, M'Michael, M'Murray, Motzgor, Mitchell, Newlin, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Read, John R., Russell, Sharpe, Simpson, Smith, H. G., Temple, White, J. W. F. and Wright—49.

Mr. LILLY. I move to go into committee of the whole to amend the second line of the tenth section, by inserting after the word "except" the word "stockholder," so as to read:

"No railroad company shall grant free passes or passes at a discount, to any person except stockholders, officers or employees of the company."

Mr. President, I hope that this Convention will not stultify itself so much as to say that a man shall not ride in his own wagon or on his own property. This amendment will not say that a stockholder shall have a pass, but it will make it possible for the railroad company to allow their officers, their servants and also their stockholders to ride. It does not say that the stockholder must have it, and if he does not have a sufficient amount of stock under their rules to give him a pass he will not get it. I think that this should be put in.

There has been a great deal said here this morning in sympathy with the poor stockholders, about their being robbed and all that sort of thing, by officers that had not the moral courage to stand up

and say no to a set of scoundrels, who come to them for passes. It is said they have been robbed by these people. Now, I say that they ought to have the right to declare that they can ride in their own property.

Mr. CUYLER. Does the gentleman understand that everybody can ask for a pass?

Mr. LILLY. I do not; but I say that has been the language used this morning. I do not know if it was used by the gentleman who asks me the question but, it has been said by others that they go and ask for passes. Now I think the word "stockholder" should be put in by all means so as to make it possible for a man to ride on his own property.

The PRESIDENT. The question is on the motion of the delegate from Carbon.

The motion was not agreed to.

Mr. STEWART. I ask unanimous consent to substitute for the word "passes," where it occurs twice in the first line of section ten, the word "transportation," so as to read:

"No railroad company shall grant free transportation, or transportation at a discount," &c.

The purpose of this section is unmistakable, but it is capable of being evaded unless this correction be made. I think this modification is necessary in order to prevent constant litigation under this section.

Mr. BOWMAN. I hope certainly we have gone far enough on this tenth section. Now, the gentleman proposes to put in here the word "transportation" instead of the word "passes." Let us see what the result will be. As an illustration—I am versed in this matter and directly, personally interested in it, and I want gentlemen to understand that I am—I have in my pocket now and here a commutation ticket for transportation purchased at the Philadelphia and Erie railroad office, at Corry, for travel from Corry to Erie. I buy twenty-six of these tickets, which are for transportation from Corry to Erie and return, for the sum of twenty-two dollars and eighty cents. The price of a single ticket is one dollar and thirty cents. It is a discount of thirty-three and one-third per cent.

Now, is it proposed here in this Convention to say that railroad companies shall not sell commutation tickets? The reason why they do it is because they get their money into the treasury at the time

and the conductor has no opportunity to cheat the railroad company at all.

Mr. CAMPBELL. If the gentleman will refer to section four—

Mr. BOWMAN. No matter about section four. I understand section four and I understand that if this word "transportation" is put in here instead of the word "passes," then you cannot hire your passage from one place to another unless you pay full fare.

Mr. STEWART. Allow me to ask a question. Does not the language of the section as it now stands cover the very case the gentleman speaks of? "Passes at a discount;" it is not merely "free passes." Commutation tickets are passes at a discount.

Mr. BOWMAN. I beg the gentleman's pardon. What I have been talking about is not passes but commutation tickets. They are not passes. I pay the money for them, and I have some of them with me, as I said before.

Mr. STEWART. What is meant by "passes at a discount?"

Mr. BOWMAN. Just this: First, that the company will be precluded from issuing a pass; secondly, that they will be precluded from issuing a pass at the sum of twenty-five cents on the dollar, or ten, if you please.

Mr. STEWART. If they get them at ninety-five cents on the dollar in the shape of a commutation ticket, is it not forbidden?

Mr. BOWMAN. We voted this morning to retain this section, and I voted with the majority. I believe it is a section that ought not to go into the Constitution, but, nevertheless, a majority thought otherwise. Now, the gentleman from Franklin proposes that I shall be precluded, and every other gentleman on this floor, from stopping up to a railroad office and buying transportation from Philadelphia to the city of Erie, and return, at a discount. It is for the interest of the railroad company to sell these commutation tickets. You have to pay in advance. You have to pay over your twenty-two dollars and eighty cents in the case I have mentioned, and they get the money, and your coupons are taken up every time you pass over the road, which is a correct and proper and legitimate business. You have to travel over that road. They are good nowhere else. This would be a monstrous proposition, it seems to me. I hope, certainly, the gentleman will not go so far as to say that no man shall contract

with a railroad company at a less price than the price for the full ticket and for one single passage.

Mr. KNIGHT. In answer to the gentleman from Franklin, I will say that we have already provided for that in the fourth section by the clause, "and no special rates or drawbacks shall, either directly or indirectly, be allowed, excepting for excursion and commutation tickets."

Mr. J. M. BAILEY. I should like to ask the gentleman who has just taken his seat a question. I believe he was the author of this section, and I have no doubt he is able to explain it. I ask him what is meant by "passes at a discount" if it does not mean commutation tickets?

Mr. KNIGHT. It does not mean that. In the first place, it says that no free passes shall be granted to any except the persons named. In the second place, if they were put at a discount, you might sell a ten dollar ticket for five cents. That is exactly what I meant to prohibit. I mean that tickets shall not be sold to parties at a discount other than the regular schedule rates, neither higher nor lower.

Mr. J. M. BAILEY. May not the railroad company sell commutation tickets?

Mr. KNIGHT. Yes, sir, at their regular rate, treating all alike.

Mr. MACVEAGH. I submit that this question of commutation tickets and passes at a discount is covered by the fourth section, which declares that no discrimination shall be made either between or against any of the people of this State. "Between any people." I think the gentleman from Philadelphia is in error. No railroad company could sell tickets to one man at ten cents—it cannot do it now—and to another man at ten dollars. The common law covers that case abundantly, thoroughly. While I thought at first that this language "passes at a discount" was necessary, I do not now think it can be. If I can find that any railroad company offers to transport anybody else one hundred miles for ten cents, they are bound to transport me for the same amount. That is covered without any of this phraseology. It does no harm, the gentleman suggests, and that would be true if it were not that certain gentlemen think it excludes commutation tickets. I think those words could be stricken out without any detriment whatever to the section, because it is perfectly illegal to do anything of the kind.

The PRESIDENT. The question is on the motion of the gentleman from Franklin (Mr. Stewart.)

The motion was not agreed to.

Mr. HOWARD. I move to go into committee of the whole for the purpose of amending section ten by striking out the words "passes at a discount," and inserting after the word "or," the words "free transportation." I think the section with this change is right and expresses what the Convention means, because it would be possible that the companies might refuse free passes, and yet there could be a plan by which there could be free transportation without a pass, and this covers both. Then by striking out these words, which seem to have led to some difficulty in the minds of other delegates in regard to whether these words "passes at a discount" do not really cover commutation tickets, we get the section I think just right by this amendment.

Mr. CURTIN. Will the Clerk read the section as it would stand if amended?

The CLERK read as follows:

"No railroad company shall grant free passes or free transportation to any person except officers or employes of the company."

Mr. COCHRAN. I wish merely to make a suggestion here, that certainly the words "free transportation" are unnecessary as an addition to the words "free passes," for they must mean the same thing. Now, it seems to me that if the gentleman would merely make his motion to strike out the words "or passes at a discount," and let the rest stand, the section would be in its proper form. The difficulty arises from the words, "or passes at a discount."

Mr. BEEBE. I should like to ask the gentleman from York a question. If the words "passes at a discount" are stricken out, what will hinder the issuing of passes at five cents a piece? That was tried in the State of New York, and it was evaded throughout the entire State in that way.

Mr. COCHRAN. Because I think the matter is provided for in another section of the article, which prevents discriminations. When you charge men at all, you must charge all alike. Therefore I think it is better as it is. If you put in "passes at a discount," you may bring the two sections, one which forbids the granting of special rates and this which allows the granting of passes at a discount, into competition with each other.

The PRESIDENT. The question is on the motion of the delegate from Allegheny (Mr. Howard.)

The motion was not agreed to.

Mr. HARRY WHITE. I move now that the Convention resolve itself into committee of the whole for the purpose of striking out in section ten the words, "to any person except officers and employees of the company," and I desire the yeas and nays on that motion. I called for the yeas and nays before, when I moved to strike out part of those words, but I was not heard.

Mr. MACVEAGH. What will be the effect of the motion?

The PRESIDENT. Who seconds the call for the yeas and nays?

Mr. DUNNING. I second the call.

Mr. HARRY WHITE. If my amendment prevails, the section will read:

"No railroad company shall grant free passes or passes at a discount."

The yeas and nays were taken; with the following result:

YEAS.

Messrs. Andrews, Bailey, (Huntingdon,) Bartholomew, Bowman, Campbell, Corbett, Corson, Cuyler, Davis, Dunning, Edwards, Elliott, Finney, Hanna, Hay, Hemphill, Hunsicker, Lilly, Littleton, MacConnell, Mann, Niles, Parsons, Stanton, Weitherill, John Price and White, Harry—26.

NAYS.

Messrs. Achenbach, Alricks, Armstrong, Baer, Baily, (Perry,) Baker, Hannan, Beebe, Biddle, Bigler, Black, Boyd, Brown, Buckalew, Calvin, Carter, Cochran, Darlington, De France, Dodd, Ewing, Fell, Gibson, Green, Guthrie, Hall, Harvey, Hazzard, Horton, Howard, Kaine, Knight, Lamberton, Landis, Lawrence, Long, MacVeagh, M'Clean, M'Culloch, Mantor, Minor, Mott, Palmer, G. W., Palmer, H. W., Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Ross, Runk, Smith, H. G., Smith, Henry W., Smith, Wm. H., Struthers, Turrell, Van Reed, Wetherill, J. M., Wherry, White, David N., Woodward and Walker, *President*—61.

So the motion was not agreed to.

ABSENT.—Messrs. Addicks, Ainey, Barclay, Bardsley, Barr, Brodhead, Broomall, Bullitt, Carey, Cassidy, Church, Clark, Collins, Craig, Cronmiller, Curry, Curtin, Dallas, Ellis, Fulton, Funck, Gilpin, Heverin, Lear, M'Camant,

M'Michael, M'Murray, Metzger, Mitchell, Newlin, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pugh, Purman, Read, John R., Rooke, Russell, Sharpe, Simpson, Stewart, Temple, White, J. W. F., Worrell and Wright—46.

Mr. HUNSICKER. I move to go into committee of the whole for the purpose of amending section ten, by adding the following:

"And for any violation of this section, any company or person issuing such free passes or permitting free transportation of persons, as well as the person receiving the same, shall be guilty of a misdemeanor, and punished by fine and imprisonment."

I desire to say but a single word in support of this proposition. It has already been well explained that if the section stands as it is, it will be simply for the benefit of the railroad companies, and no protection at all against the vice of issuing free passes. It appears to be the idea of this body that the free passes are issued with a view to corrupt the parties who receive them, and yet there is no penalty affixed. If the members of the Convention will simply give their attention to this subject they will see that this amendment makes the section operative, and enforces what we have gravely written into the Constitution. I call for the yeas and nays on my motion.

Mr. NILES. I second the call.

Mr. BEKBE. Before this proposition is voted upon, I hope the Convention will understand that it comes from a person who is opposed to every feature and every line in the section, and is offered for the purpose of loading the section down with a view of killing it.

The question being taken by yeas and nays resulted as follows:

YEAS.

Messrs. Bartholomew, Bowman, Cuyler, Edwards, Elliott, Ewing, Finney, Hanna, Hemphill, Howard, Hunsicker, MacConnell, Mann, Niles, Parsons, Reed, Andrew and White, Harry—17.

NAYS.

Messrs. Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Beebe, Biddle, Bigler, Black, Boyd, Brown, Buckalew, Calvin, Campbell, Carter, Cochran, Corson, Curtin, Darlington, Davis, De France, Dodd, Fell, Gibson, Green, Guthrie, Hay, Hazzard, Horton, Kaine, Knight, Landis,

Lawrence, Lear, Lilly, Long, M'Clean, M'Culloch, Mantor, Minor, Mott, Palmer, G. W., Palmer, H. W., Purviance, John N., Purviance, Sam'l A., Reynolds, Ross, Smith, H. G., Smith, Henry W., Smith, Wm. H., Struthers, Turrell, Van Reed, Wetherill, J. M., Wherry, White, David N. and Walker, *President*—59.

So the motion was not agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Ainey, Bannan, Barclay, Bardsley, Barr, Brodhead, Broomall, Bullitt, Carey, Cassidy, Church, Clark, Collins, Corbett, Craig, Cronmiller, Curry, Dallas, Dunning, Ellis, Fulton, Funck, Gilpin, Hall, Harvey, Heverin, Lamberton, Littleton, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Newlin, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Read, John R., Rooke, Runk, Russell, Sharpe, Simpson, Stanton, Stewart, Temple, Wetherill, Jno. Price, White, J. W. F., Woodward, Worrell and Wright—67.

Mr. CALVIN. I now move the previous question on this article. ["No." "No."] I insist on the call.

Messrs. Beebe, D. N. White, Boyd, H. W. Smith, Horton, Howard, Edwards, Lear, J. M. Wetherill, Knight, M'Culloch, Davis, Guthrie, S. A. Purviance, Mott, Fell, Joseph Baily, W. H. Smith, Baker, Reynolds, Carter and Stanton rose to second the call.

The PRESIDENT. Shall the main question be now put?

Mr. HARRY WHITE. On that question I call for the yeas and nays.

Mr. DARLINGTON. I second the call.

The yeas and nays were taken with the following result:

Y E A S.

Messrs. Achenbach, Baer, Baily, (Perry,) Baker, Barr, Beebe, Boyd, Calvin, Campbell, Carter, Corson, Davis, De France, Edwards, Elliott, Fell, Guthrie, Horton, Howard, Lawrence, Lilly, Long, MacConnell, M'Culloch, Mann, Mantor, Minor, Niles, Purviance, John N., Purviance, Sam'l A., Reynolds, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Van Reed, Wetherill, J. M., Wetherill, John Price, Wherry, White, David N. and Walker, *President*—43.

N A Y S.

Messrs. Alricks, Andrews, Armstrong, Bailey, (Huntingdon,) Biddle, Bigler, Black, Bowman, Brodhead, Brown, Buck-

alew, Corbett, Cuyler, Darlington, Dunning, Ellis, Finney, Gibson, Green, Hall, Harvey, Hay, Hazzard, Hemphill, Hunsicker, Kaine, Landis, M'Clean, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Reed, Andrew, Ross, Turrell, White, Harry and Woodward—37.

So the main question was ordered to be put.

ABSENT.—Messrs. Addicks, Ainey, Bannan, Barclay, Bardsley, Bartholomew, Broomall, Bullitt, Carey, Cassidy, Church, Clark, Cochran, Collins, Craig, Cronmiller, Curry, Curtin, Dallas, Dodd, Ewing, Fulton, Funck, Gilpin, Hanna, Heverin, Knight, Lamberton, Lear, Littleton, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Newlin, Patterson, T. H. B., Patton, Porter, Pughe, Purman, Read, John R., Rooke, Runk, Russell, Sharpe, Simpson, Stewart, Temple, White, J. W. F., Worrell and Wright—53.

The PRESIDENT. The question is on the passage of the article.

Mr. BOYD. On the article I call for the yeas and nays.

Mr. CORBETT. I second the call.

The yeas and nays were taken and were as follow, viz:

Y E A S.

Messrs. Achenbach, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Barr, Bartholomew, Beebe, Biddle, Black, Brown, Buckalew, Calvin, Campbell, Carter, Cochran, Corson, De France, Dodd, Dunning, Ewing, Finney, Gibson, Guthrie, Hall, Hay, Hazzard, Hemphill, Horton, Howard, Landis, Lawrence, Long, MacConnell, M'Culloch, Mantor, Minor, Mott, Palmer, G. W., Palmer, H. W., Purviance, John N., Purviance, Sam'l A., Reed, Andrew, Reynolds, Ross, Smith, H. G., Smith, Henry W., Smith, Wm. H., Turrell, Van Reed, Wherry, White, David N., White, Harry and Woodward—57.

N A Y S.

Messrs. Bowman, Boyd, Corbett, Cuyler, Darlington, Davis, Edwards, Elliott, Ellis, Fell, Green, Hunsicker, Kaine, Knight, Lear, Lilly, M'Clean, Mann, Niles, Parsons, Stanton, Struthers, Wetherill, J. M., Wetherill, John Price, and Walker, *President*—25.

ABSENT.—Messrs. Addicks, Ainey, Bannan, Barclay, Bardsley, Bigler, Brodhead, Broomall, Bullitt, Carey, Cassidy,

Church, Clark, Collins, Craig, Cronmiller, Curry, Curtin, Dallas, Fulton, Funck, Gilpin, Hanna, Harvey, Heverin, Lamberton, Littleton, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Newlin, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Read, John R., Rooke, Runk, Russell, Sharpe, Simpson, Stewart, Temple, White, J. W. F., Worrell and Wright—40.

The PRESIDENT. On the question of agreeing to the article, the yeas are fifty-seven and the nays are twenty-five. So the article is passed.

Mr. BUCKALEW. I ask unanimous consent to revise the seventh section of this article. I will state that the revision makes no change of substance.

The PRESIDENT. Shall the gentleman from Columbia have unanimous consent to make a revision? ["Aye."]

The PRESIDENT. The proposed revision will be read.

The CLERK read as follows:

"The president, director, officer, agent or employee"—

Mr. BOYD. Mr. President: Will it be in order to object after we hear it read?

The PRESIDENT. The gentleman should have objected sooner. The Clerk will finish reading the proposed revision.

The CLERK completed the reading as follows:

"The president, director, officer, agent, or employee of any railroad or canal company shall not be interested, directly or indirectly, otherwise than as a stockholder of such company, in the business of transportation as a common carrier of freights or passengers over the works owned, leased and controlled, or worked by such company."

Mr. BOYD. Now I object to the change.

Mr. CORBETT. I object to this or any other change being made in this article.

Mr. BUCKALEW. I desire to say but a single word. By this revision section seven is reduced from one hundred and thirteen words to fifty-two, and the revision contains precisely what is in the original section, without the change of a single idea. If gentlemen object to my having my amendment made, I move a reconsideration of the vote by which the article was finally passed.

The PRESIDENT. The gentleman voted in the affirmative.

Mr. BUCKALEW. I did.

Mr. HAY. I second the motion.

The PRESIDENT. Did the gentleman from Allegheny vote with the majority?

Mr. HAY. Yes, sir.

The PRESIDENT. The motion is before the Convention.

Mr. BOYD. I call for the yeas and nays.

Mr. BUCKALEW. I second the call.

Mr. HARRY WHITE. I understand the question to be now on the motion to reconsider the vote by which the whole article passed finally.

The PRESIDENT. That is the question. The Clerk will call the names of delegates.

The yeas and nays which had been required by Mr. Boyd and Mr. Buckalew were taken, and were as follow, viz:

Y E A S.

Messrs. Achenbach, Ainey, Alricks, Andrews, Armstrong, Baer, Bailey, (Huntingdon,) Bannan, Barr, Bartholomew, Beebe, Bowman, Brown, Buckalew, Corson, Cuyler, Darlington, Dunning, Elliott, Ellis, Fell, Finney, Green, Hay, Homphill, Hunsicker, Kaine, Knight, Landis, Lawrence, Lear, Lilly, M'Clean, Mann, Niles, Palmer, G. W., Palmer, H. W., Purviance, John N., Reed, Andrew, Smith, Wm. H., Stanton, Turrell, Wethcrill, J. M., Woodward and Wright—45.

N A Y S.

Messrs. Bally, (Perry,) Baker, Biddle, Boyd, Calvin, Campbell, Carter, Cochran, Corbett, De France, Dodd, Edwards, Ewing, Gibson, Guthrie, Harvey, Hazard, Horton, Howard, Long, MacConnell, M'Culloch, Mantor, Minor, Mott, Patterson, D. W., Purviance, Samuel A., Reynolds, Smith, H. G., Smith, Henry W., Struthers, Van Roed, Whorry, White, David N., White, Harry and Walker, President—36.

ABSENT.—Messrs. Addicks, Barclay, Bardsley, Bigler, Black, Brodhead, Broomall, Bullitt, Carey, Cassidy, Church, Clark, Collins, Craig, Cronmiller, Curry, Curtin, Dallas, Davis, Fulton, Funck, Gilpin, Hall, Hanna, Heverin, Lamberton, Littleton, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Newlin, Parsons, Patterson, T. H. B., Patton, Porter, Pughe, Purman, Read, John R., Rooke, Ross, Runk, Russell, Sharpe

Simpson, Stewart, Temple, Wetherill, John Price, White, J. W. F. and Worrell —52.

The PRESIDENT. The vote is reconsidered.

Mr. CUYLER. Now, I call for the order of the day. It is after three o'clock, and we ought to be adjourned.

The PRESIDENT. No, sir, we cannot adjourn while the previous question is pending.

Mr. HARRY WHITE. Then, sir, I rise to a point of order, that the previous question was exhausted when the article was finally passed.

Mr. BUCKALEW. Certainly it was.

Mr. CUYLER. I insist upon the orders of the day.

The PRESIDENT. The hour of three o'clock having been passed, this Convention stands adjourned until to-morrow morning at half-past nine o'clock.

ONE HUNDRED AND SIXTY-SEVENTH DAY.

FRIDAY, *October 17, 1873.*

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

Prayer by Rev. J. W. Carry.

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

PRINTER'S ACCOUNTS.

The PRESIDENT laid before the Convention the following communication, which was read:

The Hon. JOHN H. WALKER,
President of Constitutional Convention:

Under the settlements heretofore made of my accounts as Printer for the Convention and the construction of law which has been applied to my contract, I suffer, as I have heretofore represented, considerable loss. Having on hand 1,600 sets of the Debates of the Convention, printed on my own account, I respectfully request the Convention to order them to be supplied to the members for distribution, bound in the same manner as those heretofore supplied, at the price of one dollar and thirty cents per volume, which would barely compensate me therefor; and in case said order is made, I accept the same as a final and conclusive settlement and equitable adjustment of any claim I may have or claim to have against the Convention or Commonwealth for any greater sum than that I have received or may receive under the settlement of my accounts in accordance with the rules, principles, and construction which have controlled the settlement of my accounts heretofore rendered.

BN. SINGERLY, *Printer.*

PHILADELPHIA, *October, 1873.*

Mr. EDWARDS. In order to bring the matter before the Convention, I move that the proposition of the State Printer be accepted.

Mr. DARLINGTON. I move that the communication of the State Printer be referred to the Committee on Accounts.

The PRESIDENT. The motion of the gentleman from Chester is certainly no

amendment to the first motion, that the proposition be accepted. It will be necessary to dispose of that motion in the first place.

Mr. DARLINGTON. I suppose both motions are in order.

Mr. EDWARDS. I have no objections to its going to a committee. My only object is to have the matter considered.

The PRESIDENT. Does the delegate withdraw his motion?

Mr. EDWARDS. Yes, sir,

Mr. DARLINGTON. Now I move that it be referred to the Committee on Accounts.

Mr. HAY. If any such reference is made it ought to be with some instructions. ["No." "No."] I cannot see that the mere reference will amount to anything, nor can I see any propriety in the reference itself. This is a matter for the determination of the Convention itself, and not for any of its committees, and I hope it will be determined by the Convention now in the first instance, and not be referred to the Committee on Accounts. The bare reference would amount to nothing, and there are no instructions proposed to report anything for the information of the Convention. If any information is wanted, it ought to be so expressed.

Mr. LILLY. I think this communication should go to the Committee on Accounts and Expenditures, and for several very cogent reasons, and without delaying the Convention to have them all, I will state that it should be referred in order that we may know whether we shall have money enough left out of the five hundred thousand dollars appropriated by the Legislature to pay the expenses of this Convention.

Mr. HAY. I can answer that question now. If the Convention shall adjourn this month, there is no doubt in my mind that there will be ample funds, under the appropriation already made for the expenses of this body, to pay for these books if they are purchased by the Convention. Warrants have not yet been drawn for much over one-half of the

whole appropriation made by the Legislature.

Mr. BROOMALL. I am in favor of this reference. The application is made by the State Printer upon the ground that the construction put upon his contract with the Convention by its Committee on Accounts and Expenditures, a construction which is no doubt a proper one, works hard with the Printer. It is very much the practice of men who have had to deal with Legislatures and legislative bodies to get all they can out of one body and then go to another for an additional allowance. Before this proposition is accepted I want the Printer bound, if there is any possibility of doing it.

Mr. NILES. This Convention binds him.

Mr. BROOMALL. Not at present. I want him bound, if there is a possibility to do it in any way, not to go to the Legislature, half a dozen years hence, complaining that we have aggrieved him and get an appropriation to reimburse him for his alleged loss, because that is as certain to be done as that the seasons will come and go as they have done. Unless you can in some way here prevent him from doing it, it will be done, and I confess I know no way of preventing him from doing it.

Mr. BIGLER. I think this motion is eminently proper. It will be for the Committee on Accounts and Expenditures to show the Convention clearly on what principles this proposition should be accepted or rejected. For one, I do not see how I could decide that matter under the present lights. It ought to be referred, and the reasons suggested by the gentleman from Delaware show that it should be. There seems to be more in this proposition than appears on its face, and I hope it may be referred to the Committee on Accounts and Expenditures in order that they may present the whole case to this Convention and enable us to make a final disposition of the subject.

Mr. HAY. I desire that the communication be again read. As I understood it, it proposes on the part of the public Printer that in case his proposition is accepted, he will receive the acceptance as a full, final and complete settlement of any claim he might have or claim to have against the Convention or the Commonwealth in this matter.

Mr. BROOMALL. That is not enough. He must give security not to make any other claim.

The CLERK again read the communication of the Printer.

Mr. BIGLER. Mr. President: That proposition is much clearer than I supposed, and I withdraw, as far as I am concerned, the insisting upon its reference. If the Convention thinks this is a proper settlement, I am prepared to accept it.

Mr. HAY. It seems to me that this proposition is as complete a contract as could possibly be framed, and that no other agreement could be made any more binding than that. If there is any defect in it, let it be suggested, and supplied. There ought to be no mistake or misapprehension about it. Let it be clearly understood what this proposition is, and what it means, and how far it goes. It seems to me to bind the Printer completely, and that if the proposition he makes is accepted by the Convention that a complete and binding contract is thus made.

Mr. DARLINGTON. As I understand the difference between the Printer and the Convention, is about \$18,000. In other words, his accounts presented amount to \$18,000 more than can be allowed under the contract. Now, what is it that he proposes to do? He proposes that we shall pay him between \$14,000 and \$15,000, for that is what this amounts to, and take these books which he printed on speculation. I am opposed to the whole thing.

Mr. COCHRAN. Mr. President: I cannot understand what is expected to be gained by referring a question of this kind to the Committee on Accounts. What is the Committee on Accounts? It is a committee merely to ascertain what bills are proper, in the first place, and then the amount of those bills. Now, what is the proposition here made? It is that we shall purchase, as I understand it, sixteen hundred copies of our Debates at the rate of \$1.30 a volume; that is to say, each volume will cost \$2,080, and if the Debates cover eight volumes the amount proposed to be paid, according to my calculation, is \$16,640. If seven volumes, then it would amount to between \$14,000 and \$15,000.

There is all the calculation that the Committee on Accounts could make.—The question for this Convention is for itself to determine whether or not it is prepared to pay either between \$14,000 and \$15,000 or between \$16,000 and \$17,000, in order to make a final settlement of this printing annoyance. How can any committee present a question more distinctly

than this to the Convention? The Convention ultimately must decide this question. Do they want the Committee on Accounts to recommend either that they shall or shall not do it? What jurisdiction would the Committee on Accounts have over a question of that kind? They are simply an accounting committee; their business is a matter of dollars and cents. Now, you have the dollars and cents before this Convention; and if the Convention think they ought to pay that much in order to settle this matter, let them say so. If they think not, let them say so. I cannot for the life of me see what benefit is to be derived from referring this to the Committee on Accounts for it cannot cast off from this Convention the necessity of ultimately deciding the question itself.

Mr. CURTIN. Mr. President: If we owe Mr. Singerly a sum of money, or if he has a reasonably equitable claim on this Convention for any sum of money, we will pay it, and we only torture ourselves by continued debate on the subject. It will be revived every morning, and morning after morning, until finally the Convention will pay him.

Now, if Mr. Singerly by any construction of his contract with the Committee on Printing was misled, if there can be the slightest misapprehension, and under that misapprehension Mr. Singerly has lost money, as I am quite sure he has, without entering into any controversy, without any indirection or passing around the question, let us come squarely up and pay the man what we owe him and be done with him.

I do not need the books, for my part, but if Mr. Singerly gives us value for the money and really has the books on hand, by reason of his construction of his contract by all means take them, and if Mr. Singerly has a contract with this Convention which bears two constructions, which by the slightest implication shall mean that he is unjustly dealt with and that we owe him a sum of money, let us pay it, either directly or by the purchase of the books, and I think we do owe him money. I think Mr. Singerly had a right to give the contract this construction, or at least that it is not unreasonable; but let us not apply hard rules to him. If we have money enough of the \$500,000 to pay Mr. Singerly, let us pay him the money and be done with the debate, so that morning after morning we may not be annoyed with it.

Mr. LAMBERTON. The great merit in this proposition of Mr. Singerly is, that it not only closes the question entirely and utterly, but it gives us a consideration beside, for as I understand the proposition it is that there shall be issued to this Convention sixteen hundred more copies of the Debates, for which we are to pay at the rate of \$1 30 per volume, so that we shall end what may be a litigated question by acting upon the proposition favorably to-day. It was demonstrated in the debate a few days ago that this contract was open to question and doubt, at least in the minds of some members of this Convention. So far as I was concerned, I was perfectly clear that the construction given to the contract by the committee was the correct one; but, sir, in order to close the matter to end it finally, I am decidedly in favor of accepting this proposition.

Mr. BAER. I am opposed to referring this matter to the Committee on Accounts, and prefer that the Convention should settle the question at once. If this Convention owe the State Printer anything in pursuance of his contract, it is fair that they should pay it; if they do not owe him anything on this contract, it is unfair to pay him anything. This money does not belong to them. If there is an unexpended balance of the money appropriated for the expenses of this Convention, this Convention has no control of it. I apprehend the people would hardly consider it right for us to compromise this case, even if it is a doubtful one, by taking depreciated stocks. If the gentleman has entered into a bad venture by investing in the reports of this Convention, supposing that he could sell them, and now finds that they are depreciated and cannot sell them, he comes to the wrong market to get them off. The people will not buy them because they do not consider them worth much, and if the people do not consider them worth much, this Convention ought not to consider them worth much more. I am opposed to doing anything except in a direct way, paying what we owe.

Mr. BEEBE. I trust the Convention will adopt this proposition as a settlement of this matter, as being the most reasonable and ready to be attained. So far as these Debates are concerned, I can say for the constituency which I represent that they are in great demand, and what we have had afforded no adequate supply for that demand. I should be glad

if there were more. Pennsylvanians will want light upon our work here, and this proposition will enable us to distribute more copies, which they should have and which they desire. I trust, therefore, without prolonging this discussion, that we shall accede to the proposition, first, because it is reasonable, and, second, because it is beneficial to the people and to the Convention itself.

Mr. HARRY WHITE. I have no apology to make to the Convention for saying a word in explanation of my vote on this question. I think the short time spent in disposing intelligently and finally of this question is time well spent. This is a practical question. A very material difference exists between the accounts and claim of the State Printer for our printing and that which was allowed by the Committee on Accounts. I had the pleasure, and I took very great pleasure, in sustaining the report of the Committee on Accounts in settling the claim of Mr. Singerly. I think legally and technically they were clearly right. But there is a difficulty in this matter. There is an equity in the claim of Benjamin Singerly against the Commonwealth and it is proper for us to consider it. Now what is it? It seems when Mr. Singerly bid for the printing of the Debates and for the general printing of this Convention, he was under the impression that the printing was to be paid for otherwise than according to the schedule rates, and he likened it, for instance, to the practice of the Legislature from time to time making a separate contract for the printing of their debates from the general ordinary State printing.

The State Printer has from time to time alleged, in conversation at least, a right under his contract to the printing of what is known as the Legislative Record; but the Legislature has taken a different view and appointed special committees and made special contracts for the printing of its debates. The State Printer had an idea that the printing of our debates, in the absence of the ordinary rate matter which is allowed printers, came under the provision of the contract which allowed different rates from those fixed in the schedule. The Committee on Accounts very properly differed with him, and they have settled this matter; but the State Printer claims that by reason of this impression of his he has an equity, and that equity amounts in the aggregate to from \$15,000 to \$20,000.

Now the question is, how will this Convention settle it? Are we to turn our back upon this equity? Are we to say to Benjamin Singerly, "We have nothing more to do with you; we will hold you to the letter of the bond; if any allowance is to be made hereafter, go to the Legislature of the Commonwealth." That is the way the question presents itself; and what will be the result; Benjamin Singerly and his friends will go from year to year and knock at the door of the Legislature. The Legislature may refuse this year, but new men will come in next year, not understanding it, and my life for it, Mr. President, he will ultimately get his claim from the Commonwealth, and we shall receive no more consideration than we now have. Now, as a settlement of this matter, Benjamin Singerly comes here and proposes to give us one thousand six hundred sets of Debates at a cost of one dollar and thirty cents per volume. That will amount, say to fourteen thousand four hundred dollars, or practically fifteen thousand dollars, and that allowance he asks to have made as a final settlement with this Convention. I shall vote in favor of this proposition, for it is a finality of a vexed question.

Some gentleman has intimated that this is forcing worthless stock upon us. I do not agree upon that view. This is a historical Convention. The people of this Commonwealth have made application to different members and officers of the Convention for copies of the Debates. I apprehend that this is the wisest and safest and best way in which we can settle this whole matter. I am, therefore, in favor of the proposition.

Mr. J. PRICE WETHERILL. I think, Mr. President, in the consideration of this question we had better look at the other side of the case which has not been presented by the gentleman who has just taken his seat.

Nearly a year ago we advertised for proposals for this work, and we had some five or six bidders. The rejected bidders probably took the right view of this case. They probably took the same view of the case that the Committee on Accounts did. They knew very well that the discount provided by law would cover the items which the Printer does not think should be covered. But their bids were thrown out; they were unfairly treated, and they were told by a gentleman from Allegheny that the only printer who could do our work was one from Pittsburg. The prin-

ters throughout the State who came here and expected fair treatment at your hands will be amazed, I think, to find that their fair construction of the law was not seen by a man who has been doing the printing of the Commonwealth for years.

There was a claim of eighteen thousand dollars which the Committee on Accounts and Expenditures have refused to allow, and which were so clear that we voted in accordance with their recommendation, and if the Printer was not satisfied that that was not a just and fair claim, he would not come here to-day and offer to present us with fifteen thousand dollars worth of material. I think then we should not take further action in this matter. The State Printer cannot say there has been an error made in this thing, and I say that, as trustee of public funds, we have no right whatever to give them away. The appropriation of five hundred thousand dollars made by the Legislature for the expenses of the Convention, is not our own money. It is money belonging to the State. It is money which must be raised by the tax-payers. It is a trust fund, and I contend that we have no right whatever to give any of it away in this manner.

Mr. J. N. PURVIANCE. It will be recollected that about the time the Convention assembled at Harrisburg, Judge Woodward offered a resolution, which was adopted, calling upon the Auditor General or the State Treasurer, I forget which, to state the cost of the printing of the Convention of 1837 and 1838. In answer to that resolution the cost of that printing was stated to be ninety-nine thousand five hundred and twenty-three dollars and forty cents; and Judge Woodward upon that occasion, in opposing the printing of the Debates, supposed that they would cost perhaps double that amount, taking into consideration the advance in the price of labor, of material, &c.

Now, Mr. President, the printing of this Convention so far has cost the State twenty-two thousand dollars only, and the paper has cost seventeen thousand dollars. Now, if we add the sixteen thousand dollars that these volumes will come to, we shall have the aggregate of fifty-five thousand dollars in all for the cost of printing, binding and paper, including these sixteen hundred extra volumes. Whatever may have been the construction of Mr. Singerly of the contract which he has with the State for the printing to be done

for this Convention, the Committee on Accounts and Expenditures were very clear in their construction of the contract, as they decided it and reported it to the Convention. The duty of that committee is to report the proper expenses to the Convention. After careful consideration of the act of Assembly, and of the contract of Mr. Singerly, we gave to the contract a construction which reduced from his charge some seventeen thousand dollars of the amount that he had claimed. We thought that it was right. The Convention at least, on a full hearing of the matter, sustained that view of the Committee on Accounts and Expenditures in the construction of the statute.

Mr. Singerly now alleges, and perhaps properly, that he has lost, and lost largely, by this contract, and he proposes as a final adjustment of the whole matter, that if the Convention will accept these volumes it shall be a final and conclusive settlement of his whole claim. I take it that it will be economy on the part of this Convention to accept the proposition. If not, he may go to the Legislature and perhaps fare better there than he will at the hands of this body. Therefore I trust that the proposition, without being referred to the Committee on Accounts and Expenditures—because, as the gentleman from York, (Mr. Cochran,) also a member of the committee, remarked, I cannot see what that committee has to do with it. The Convention, not the committee, should act upon it. The State Printer submits this proposition to the Convention, and they understand it now just as well as they can when a report is made from the Committee on Accounts and Expenditures, because that committee can only simply report the facts as contained in this proposition. We are therefore as well prepared to vote on it now as we will be at any future time, and I hope the Convention will act upon it at once.

Mr. HAY. To my mind this matter has nothing whatever to do with the settlement of the Printer's accounts, and I do not want the Convention to permit the two subjects to be mingled together. They are entirely distinct. The only question now before this body to be determined is whether the members of this Convention desire to have an additional number of sets of Debates to distribute amongst the people of their localities. If, in their judgment, it is expedient to make the purchase of the Debates of the Con-
 ven-

tion for distribution among the people, then the purchase ought to be made. If they believe in the contrary, then they ought not to vote to accept the proposition of the Printer. The only question to be now determined by this body is whether it is wise to purchase the additional number of volumes for distribution or not. I have myself many more applications for copies of the Debates from citizens who ought to have them than I am able to supply from those already ordered for distribution.

Mr. D. N. WHITE. Mr. President: Is the motion amendable?

The PRESIDENT. The Chair thinks the motion can be amended.

Mr. D. N. WHITE. Then I move to amend, that the Convention accept the proposition of the Printer.

Mr. HARRY WHITE. Mr. President: What is the precise motion?

The PRESIDENT. The motion is to refer the proposition of the Committee on Accounts and Expenditures.

Mr. HARRY WHITE. I cannot see any wisdom in that.

The PRESIDENT. The amendment is moved that the Convention accept the proposition.

Mr. HARRY WHITE. That is right. I hope the Convention will accept it.

Mr. J. M. BAILY. I only rise to make an inquiry from some delegate present who perhaps can give me the information. What have the Debates already furnished us cost per volume? I hope that the Convention will not vote for this resolution blindfold. Let us understand whether one dollar and thirty cents per volume is a fair or unfair price.

Mr. CONSON. I rose to make a similar inquiry, for I have been governed in all my votes upon this question of paying members, clerks, reporters, &c., by the amount of our appropriation. I understand that a calculation has been made which shows that if the Debates shall not exceed nine volumes, and the sessions of this Convention shall not exceed three months from the sixteenth of September last, there will be a balance of this appropriation of nearly fifty thousand dollars. This is the only deliberative body in the world, that I know of, that has not exhausted the appropriation made for the pay of its members. Instead of there being any back pay or salary grab in this matter, we have left fifty thousand dollars in the State Treasury of the sum set apart for us by the people of the State.

And more than that we have paid our Chief Clerk and other employees of this Convention more than we have paid ourselves. I do not believe any other deliberative body ever did that. [Laughter.] If this be true, and this appropriation will not be exhausted, even though the Debates shall reach nine volumes, and even though the sessions of this Convention shall extend to three months from the sixteenth of September last, then I am in favor of taking these extra volumes, and expending sixteen thousand dollars to buy them especially to settle a disputed claim and have peace; because these Debates are valuable and I would like to have some more of them, [laughter,] and I believe this is the cheapest way of distributing them among the people.

If the purchase of these additional volumes will settle finally all claims of the State Printer and still leave us forty thousand dollars in the State Treasury, I will vote for the acceptance of his proposition; but it seems to me that we ought to have the facts and figures in the report of some committee in this body, or in the report of somebody authorized to present them. As the gentleman from Huntingdon (Mr. J. M. Bailey) says: I want to know from some proper authority whether this is a proper price to be paid for these Debates, and I want to know from the same, or another authority, how much money there is in the treasury now to the credit of this Convention, and how much will be left of our five hundred thousand dollars if this purchase be made. Let us have these figures and this information. We have no power to make any appropriations for our own pay, and therefore our representatives in the Legislature, without our knowledge or consent, and without any action on the question on our part, but in deference to the demands of the people and the press, repealed the law under which our salaries were limited to a miserable pittance, and appropriated five hundred thousand dollars for the pay of members and the expenses of the Convention. I am opposed to any action which will make our outlay exceed the amount appropriated to pay it. Having made a thorough inquiry of the transcribing clerks, I am informed that the estimate show that even if we buy these extra volumes at one dollar and thirty cents per volume and distribute them among the people, we will not consume our fund, but still leave the State Treasurer

In the possession of the nice little sum of fifty thousand dollars of our money. But I will vote first for a reference of this proposition to a committee, and if these facts be found as I am informed, and state them, I will cheerfully vote to accept Mr. Slingerly's proposition.

Mr. D. W. PATTERSON. This price is too little. He cannot make up the books for \$1 30.

Mr. CORSON. I do not know anything about that. I know in our county he can get \$5 a volume for them. [Laughter.] I believe this is the safest way to settle the matter; but I hope there will be some report from some committee on the subject before we vote.

Mr. BIDDLE. I want to know precisely what we are to vote upon.

The PRESIDENT. On the amendment to the motion, the amendment of the delegate from Allegheny (Mr. D. N. White.)

Mr. CALVIN. I should like very much to have the chairman of the Committee on Accounts answer the statement made by my friend from Lancaster.

Mr. DARLINGTON. I ask that the proposition be reduced to writing.

Mr. BIDDLE. I want to know what I am to vote upon.

Mr. J. R. READ. I should like to inquire of the chairman of the Committee on Accounts how much of the \$500,000 that has been appropriated for the use of this Convention has been expended.

Mr. HAY. In reply to the question I will state that up to the present month, in addition to the warrants for mileage, the exact amount of which I do not yet know, but which probably will amount to about \$4,000, warrants have been drawn for \$275,586 79, including a duplicate warrant for \$71 40, which has to be deducted from that amount, leaving it \$275,515 30. Of that, however, about \$20,000 of warrants have not yet been presented at the treasury, so that the total amount paid out from the treasury on account of the appropriation for the expenses of this body, to this month, is very little, if any, in excess of \$250,000. The total expenses of the Convention, so far as I can estimate them, on the basis of the session continuing to the end of this month, will, I think, not exceed from \$480,000 to \$475,000. The warrants already drawn to this date are about as follows: For pay, mileage, stationery, &c., of members, \$208,081 50; for pay of officers \$20,925 00; for contingent and petty expenses, including stationery and pay of employers, \$12,574 57; for re-

porting proceedings, \$18,226 92; for paper for Journals, Debates, &c., \$17,790 00; for printing memorials, \$400 00; for printing, \$5,000 00; making total amount of warrants already drawn (excluding a duplicate warrant for \$71 40) \$282,997 99; in addition to this \$15,626 62 has been reported as due the Printer in addition to the amount of warrant paid him, making expenditure to this time \$298,624 61.

My estimate of the expenditures yet to be made, based upon what has been already paid out and what it seems to me will have to be paid, judging from the probable continuance of the sessions of this body during the remainder of this month, is that they will reach about \$165,650—making in all, for the whole expenses of this body, from the beginning of its sessions, in November, 1872, to the end of the present month, about a year, say \$464,274 61. This of course may be varied somewhat by length of session, by increased expenses being authorized, or by other causes; but it is as near an estimate as I can now make from the data I have at present.

Mr. CALVIN. Including all expenses?

Mr. HAY. All expenses; including of course the warrants for the balance of the pay of members and officers.

Mr. NEWLIN. Including this purchase?

Mr. HAY. And including this purchase, if made.

Mr. STANTON. Now, as I understand, the question before the Convention is to accept the proposition made by Mr. Slingerly.

The PRESIDENT. That is the amendment.

Mr. BIDDLE. I want to hear precisely what we are voting upon. Will the Clerk read the amendment?

The PRESIDENT. The first motion was to refer the communication to the Committee on Accounts. The delegate from Allegheny moved to strike out the reference to the Committee on Accounts, and insert "that the Convention accept the offer of Benjamin Slingerly."

Mr. CORBETT. I call for the yeas and nays.

Mr. J. PRICE WETHERILL. I second the call for the yeas and nays.

The PRESIDENT. The Clerk will call the roll.

Mr. J. PRICE WETHERILL. I should like to ask the chairman of the Committee on Accounts one question before the vote is taken, and that is: If this Con-

vention should decide in holding a special election to incur an amount of expense necessarily incident thereto, if we vote away this fifteen thousand dollars, would there be, in his opinion, any money left for that purpose?"

Mr. HAY. In reply to that question, I would state that that is a matter of which of course I know nothing. I do not think such an expenditure would be a proper expense of this body, to come out of the appropriation made for the payment of its expenses; but of course I have no knowledge on the subject of the amount of such expenditures as that.

Mr. LILLY. I contend that this Convention have nothing to do with paying the expenses of the election of any kind whatever.

The PRESIDENT. The Clerk will call the names of delegates on the amendment.

The yeas and nays were taken with the following result:

Y E A S .

Messrs. Alricks, Andrews, Baily, (Perry,) Baker, Barclay, Barr, Beebe, Bigler, Bowman, Buckalew, Carey, Carter, Church, Clark, Curry, Curtin, Cuyler, Dallas, De France, Dunning, Edwards, Ewing, Fulton, Gibson, Green, Guthrie, Hanna, Hay, Hemphill, Horton, Howard, Kaine, Lamberton, Lilly, MacConnell, M'Michael, M'Murray, Mann, Manter, Niles, Patterson, D. W., Patton, Porter, Purviance, John N., Purviance, Samuel A., Smith, Wm. H., Stanton, Stewart, Wetherill, J. M., Wherry, White, David N., White, Harry and Walker, *President*—53.

N A Y S .

Messrs. Achenbach, Ainey, Armstrong, Baer, Bailey, (Huntingdon,) Bannan, Biddle, Black, Boyd, Brodhead, Broomall, Brown, Calvin, Campbell, Cochran, Corbett, Cronmiller, Darlington, Davis, Dodd, Elliott, Ellis, Gilpin, Hall, Hunsicker, Knight, Landis, Lawrence, M'Culloch, Minor, Mott, Newlin, Palmer, G. W., Palmer, H. W., Purman, Read, John R., Reed, Andrew, Reynolds, Rooke, Ross, Smith, H. G., Smith, Henry W., Struthers, Wetherill, John Price, Woodward and Wright—46.

So the amendment was agreed to.

ABSENT.—Messrs. Addicks, Bardsley, Bartholomew, Buckalew, Bullitt, Cassidy, Collins, Craig, Cuyler, Dallas, Fell, Finney, Harvey, Hazzard, Heverin, Lawrence, Lear, Littleton, MacVeagh, M'Camant, M'Clean, Metzger, Mitchell, Parsons, Patterson, T. H. B., Pughe, Runk, Russell, Sharpe, Simpson, Temple, Turrell, Van Reed, White, J. W. F. and Worrell—35.

Harvey, Hazzard, Heverin, Lear, Littleton, Long, MacVeagh, M'Camant, M'Clean, Metzger, Mitchell, Parsons, Patterson, T. H. B., Pughe, Runk, Russell, Sharpe, Simpson, Temple, Turrell, Van Reed, White, J. W. F. and Worrell—34.

The PRESIDENT. The question now recurs on the motion as amended, that the proposition of Mr. Singerly be accepted.

Mr. J. PRICE WETHERILL. On that question I call for the yeas and nays.

Mr. H. W. SMITH. I second the call.

The yeas and nays were taken with the following result:

Y E A S .

Messrs. Alricks, Andrews, Armstrong, Baily, (Perry,) Baker, Barclay, Barr, Beebe, Bigler, Bowman, Carey, Carter, Clark, Curry, Curtin, De France, Dunning, Edwards, Ellis, Ewing, Fulton, Funck, Gibson, Green, Guthrie, Hanna, Hay, Hemphill, Horton, Howard, Kaine, Knight, Lamberton, Lilly, Long, MacConnell, M'Michael, M'Murray, Mann, Mantor, Niles, Patterson, D. W., Patton, Porter, Purviance, John N., Purviance, Sam'l A., Smith, Wm. H., Stanton, Stewart, Wetherill, J. M., Wherry White, David N., White, Harry and Walker, *President*—54.

N A Y S .

Messrs. Achenbach, Ainey, Baer, Bailey, (Huntingdon,) Bannan, Biddle, Black, Boyd, Brodhead, Broomall, Brown, Calvin, Campbell, Church, Cochran, Corbett, Corson, Cronmiller, Darlington, Davis, Dodd, Elliott, Gilpin, Hall, Hunsicker, Landis, M'Culloch, Minor, Mott, Newlin, Palmer, G. W., Palmer, H. W., Purman, Read, John R., Reed, Andrew, Reynolds, Rooke, Ross, Smith, H. G., Smith, Henry W., Struthers, Wetherill, John Price, Woodward and Wright—44.

So the motion was agreed to and the proposition accepted.

ABSENT.—Messrs. Addicks, Bardsley, Bartholomew, Buckalew, Bullitt, Cassidy, Collins, Craig, Cuyler, Dallas, Fell, Finney, Harvey, Hazzard, Heverin, Lawrence, Lear, Littleton, MacVeagh, M'Camant, M'Clean, Metzger, Mitchell, Parsons, Patterson, T. H. B., Pughe, Runk, Russell, Sharpe, Simpson, Temple, Turrell, Van Reed, White, J. W. F. and Worrell—35.

LEAVES OF ABSENCE.

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

Mr. BAER asked and obtained leave of absence for Mr. S. A. Purviance for a few days from Monday.

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

Mr. CORSON asked and obtained leave of absence for himself for Monday.

Mr. HARRY WHITE asked and obtained leave of absence for Mr. Struthers for a few days from Monday.

Mr. ELLIOTT asked and obtained leave of absence for Mr. Church for Monday and Tuesday next.

Mr. M'MURRAY asked and obtained leave of absence for himself for Monday and Tuesday next.

Mr. CURTIN asked and obtained leave of absence for himself for Monday next.

Mr. CURRY asked and obtained leave of absence for Mr. H. W. Palmer for Monday and Tuesday next.

Mr. D. N. WHITE asked and obtained leave of absence for himself for a few days from Monday next.

Mr. H. W. SMITH. I ask leave of absence for myself for Monday next and a day or two after. I may state that if I could get business put off, I would still remain in my seat.

Leave was granted.

NEW COUNTIES.

Mr. BROOMALL. Mr. President: I rise to make a privileged motion. I move to reconsider the vote by which the article on new counties was finally passed.

Mr. S. A. PURVIANCE. I second the motion.

The PRESIDENT. Did the gentleman vote in the affirmative?

Mr. BROOMALL. I voted with the majority.

Mr. S. A. PURVIANCE. I voted with the majority.

Mr. HARRY WHITE. I think we ought to have a statement of the reasons for the reconsideration.

Mr. BIGLER. That is not in order.

Mr. BROOMALL. I can state — ["No." "No."]

Mr. BOYD. I call for the yeas and nays on the motion to reconsider.

Mr. CHURCH. I second the call.

Mr. BROOMALL. What is the question?

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The PRESIDENT. The question is, will the Convention reconsider the vote on the passage of the article?

Mr. BROOMALL. I do not desire to have action upon the motion at this time. I move to postpone the further consideration of the motion for the present. ["No." "No."]

The PRESIDENT. The delegate from Delaware moves to postpone the consideration of the motion to reconsider for the present.

Mr. CORBETT. I move to amend by postponing indefinitely.

Mr. BIGLER. That is not in order.

The PRESIDENT. It is moved to amend the motion to postpone, by postponing indefinitely.

Mr. CHURCH. I call for the yeas and nays on that.

Mr. BOYD and Mr. NILES seconded the call.

Mr. BROOMALL. Now, before the yeas and nays are called on that motion, I desire to state why I moved the reconsideration.

Mr. BOYD. Is debate in order?

The PRESIDENT. Debate is not in order on a motion to reconsider.

Mr. BROOMALL. It is in order on a motion to indefinitely postpone. I make the motion to reconsider for the purpose of getting rid of one or the other of the two sections of the article, because both certainly are necessary. I am wholly uninterested in this question; my county has arrived at the ultimate indivisibility of matter, and hence cannot be divided any more; but the article is bad inasmuch as the two sections overlap one another; and nobody, I take it, wants both. I make the motion in order that we may get rid of one section or the other, and I do not care which, because I really want the document we are making to exhibit some consistency and to be something like a model of good English.

Mr. CHURCH. This article was passed on Monday I believe by a very large majority, by a vote of fifty to twenty, and I certainly protest against the reconsideration of this, or any other article after its final passage. We shall never finish the labors of this body as long as we insist on reconsidering every article. We had an illustration of it yesterday. After the article on railroads had been debated time and time again, till everybody had become weary of the discussion, the article was passed finally, and then by a small majority reconsidered, and it is now hang-

ing by the eyelids before this body. We shall never get through our business if a minority of one person who has voted with the majority feels at liberty to endeavor to secure a reconsideration for the purpose of reopening the whole subject. I hope, for the sake of the consistency of this body and the consistency of its members, we shall vote to postpone this matter indefinitely. Only by this course we can see our way to a definite conclusion of the labors of this Convention.

Mr. KATZ. I think it much better to have the article we are preparing for the new Constitution in proper shape and in proper order than that the Convention should be consistent in not voting to reconsider things that are evidently wrong. Several of the smaller articles have been passed through third reading in a very great hurry, and I think without due consideration; and they are inconsistent, instead of the Convention being inconsistent in trying to get them right. After nearly a year's labor in endeavoring to form an amended Constitution for Pennsylvania, I think it is of the highest importance that we should now, in our closing hours, consider everything maturely and deliberately, and if after an article has passed third reading it is found to be imperfect, if any gentleman upon this floor discovers defects in it, I can see no objection to this Convention going into committee of the whole for the purpose of perfecting that article. I hope the motion to postpone indefinitely will not prevail, and that the motion to postpone for the present will.

Mr. S. A. PURVIANCE. I trust that the Convention will adopt the motion to postpone for the present and not the motion to postpone indefinitely, for the reason that I believe this article on new counties, with the second section, is the heaviest load that we have yet put upon this Constitution. The first section provides that there shall be no county created in this Commonwealth unless it has a population of twenty thousand. That is all right enough. Next, the first section provides that it shall have an area of four hundred square miles, which is about twenty miles each way; and thirdly, it provides that the boundaries of the new county shall not come nearer the county seat than ten miles.

All that is right enough; but the second section which was put upon that article, by which is required a majority of the voters of the old county to assent to the

creation of a new county, shuts the door and prohibits the Legislature from ever making a new county at all. Let me say this, that throughout the Commonwealth there are probably twenty localities, such as Scranton and others, that have reasonable expectations, at least, of some day or other being created a new county; and if you adopt this section of the article their reasonable expectations will be blasted forever. I therefore hope that this reconsideration will take place for the purpose of knocking off that second section and letting the article stand as it was with the three restrictions in the first section, which are enough.

I heard the gentleman from Philadelphia (Mr. Cuyler) the other day talk about this question. He addressed himself to his Philadelphia colleagues and said that the tendency of this measure was to reduce the representation of Philadelphia. I suppose that upon reflection the honorable gentleman will see that the basis of his argument was fallacious. This article does not interfere with the representation of Philadelphia, because the ratio of representation is seventeen thousand, and the requirement for the new county twenty thousand, and it does not alter the enumeration of inhabitants, which remains the same in either the new or old counties; and therefore the objection that is in any way a restriction upon the representation of Philadelphia is unfounded. I certainly hope that this article may be reconsidered.

Mr. LILLY. I cordially agree with what has been said by the gentleman from Allegheny, (Mr. S. A. Purviance,) and trust that, in its wisdom, this Convention will reconsider this article. Indeed, sir, I do not think I should be saying too much if I were to ask the Convention to reconsider all or nearly all of the articles that it has adopted. If we expect our Constitution to be ratified by the people, certainly some such reconsideration must be made. There is a large and growing feeling of dissatisfaction with the action that has been taken by this Convention; and I have been surprised to find in the city of Philadelphia so many people opposed to the action of this body, particularly with reference to the articles upon the judiciary and upon railroads. So far as my knowledge goes, these two articles, as they have passed third reading in this Convention, have

been received with almost universal condemnation by the people of Philadelphia.

Mr. BIDDLE. Oh, no!

Mr. LILLY. That has been my experience, and I think that if this Convention desires its work to be accepted by the people, it ought to reconsider all its previous action and recast these articles anyhow.

Mr. CUYLER. I agree with the gentleman from Carbon in his denunciation of the judiciary article and the article on railroads and canals; but I have hopes that we are coming to something better, because the gentleman from Crawford (Mr. Church) said this morning, and I hailed it with great satisfaction, that the whole Convention was sick of the railroad article. [Laughter.] I am not surprised at it. I hope they will continue so until they produce something better.

The gentleman from Allegheny (Mr. S. A. Purviance) appeals to me and says that he trusts I have seen in a different light this article with regard to new counties, and that I would be prepared now to take a different view of it. It is indeed true, sir, that so long as the ratio is seventeen thousand, and the article provides that new counties shall not be created without twenty thousand inhabitants, it would do no damage to the city of Philadelphia if a new county were created. But Pennsylvania, thank God, is not stationary. Her population grows all the time, and while the ratio to-day is seventeen thousand, the time is just at hand when it will be twenty-five thousand or thirty thousand. The very moment it shall reach twenty thousand my remarks will be true, and then every new county that is created, requiring one additional representative to be taken away from the twenty thousand ratio, will diminish the already largely diminished powers of the larger cities of the Commonwealth, and therefore it was that, with this view, I expressed my objection.

Mr. WOODWARD. The gentleman has moved to indefinitely postpone this motion, which is a motion to reconsider. The gentleman who moved to postpone indefinitely voted with the majority on the educational article, and therefore can move a reconsideration of that, which, if we will do, I will vote for his motion now, and otherwise I will not. I want to make that bargain with the gentleman, for he and all of us have some interest in the character of our work. We are about to send out a Constitution to the people on

the subject of education that in one respect is a disgrace to every member of this body. The Legislature, who will be sworn to support this Constitution, will pay no respect to it, but will disregard it, for the Convention had no power to put it in. The Supreme Court, before whom it will eventually come, will say that the Convention adopted the provision *ultra vires*, that they had no right to appropriate one million of dollars annually out of the public treasury, and therefore their act was void; and then, sir, this Convention, composed of over one hundred lawyers, are going to send out a provision that the school boys under your common school system will laugh at, which the Legislature sworn to support your Constitution will disregard, and which the Supreme Court will declare to be unconstitutional and subversive of the first principal of republican government which always places the public treasure under the exclusive control of the people's representatives in General Assembly met.

I pointed out these objections when that subject was up, and my friend from Venango (Mr. Beebe) offered to the Convention what he tells us was a conclusive answer to my argument, that when he was a school director he did not have money enough to satisfy his purposes. That, sir, was the argument against this objection, and we inserted the provision. The appropriation of money to public schools for school directors, or salaries, is an act that we have no power to perform. If the gentleman from Clarion will move to reconsider that article I will vote for the reconsideration of the other.

Mr. CORBETT. I would like to ask the gentleman a question. Why should I move the reconsideration of the article on education any more than he should?

Mr. WOODWARD. I did not vote with the majority.

Mr. CORBETT. I voted against incorporating the appropriation clause in the article; but I do not know whether or not I voted for the article. Probably I did.

Mr. WOODWARD. My memory is that you did vote for the article, and therefore I appeal to you to move to reconsider it.

Mr. CORBETT. I may have voted for the article. My recollection is that I did.

The PRESIDENT. To what article do you refer?

Mr. CORBETT. To the article on education.

The PRESIDENT. The yeas and nays will show.

Mr. CORBETT. I voted against incorporating that provision, but I may have voted for the article with it in.

Mr. HOWARD. Mr. President: Is this debate in order?

The PRESIDENT. The Chair is almost of opinion that he has erred in permitting any discussion at all.

Mr. NILES. It is all out of order.

The PRESIDENT. It may have been out of order to discuss the motion. Certainly it was out of order to proceed to discuss another article.

Mr. BOWMAN. I am not going to discuss this question, but I wish to call the attention of delegates to the present position of this article. We have the first section, which declares that no new county shall be formed except on certain terms and conditions; we understand its provisions, the twenty thousand inhabitants and the four hundred square miles, and that it shall not come nearer than ten miles to the county seat of an old county. That is the first and only section of the article. When the article on legislation was under consideration the other day the gentleman from Luzerne (Mr. Dunning) made a motion to amend a certain section in that article referring to the formation of new counties, which amendment carried. Then the gentleman from Luzerne (Mr. H. W. Palmer) offered an amendment to that amendment, which also carried. Then that goes into the article on legislation referring to the very article on new counties. That is the way the matter stood until last Monday, when the gentleman from Crawford (Mr. Church) offered an amendment to the article on new counties, which is precisely what is in our present Constitution, submitting the vote on the question to the people of the county proposed to be divided.

Now, what do we have? We have first the first section in the article under consideration; we have secondly an amendment referring to the same subject-matter, and not differing very materially therefrom, in the article on legislation, but applying exclusively to Luzerne county, and no other county in the State; and finally we have the amendment which has been carried, offered by the gentleman from Crawford. If gentlemen wish his thing to go into the Constitution as it

now stands, you have a beautiful mess of it. You may do what you choose; I do not care one way or the other, whether you vote this up or down; but it would be a disgrace to the makers of any Constitution, or to a Legislature, in passing an act, to have an entire article referring to a subject, as this is, to go before the people in its present standing and condition. Let us preserve the symmetry between this article and the one on legislation, if possible.

Mr. NILES. Mr. President: It appears to me that my friend on the left (Mr. Bowman) entirely misapprehends this question. It is no new question. Upon three several occasions heretofore by a very large vote the very same proposition was adopted by this Convention that it is now proposed to reject. They voted upon it by a large vote, more than two-thirds, when I offered it as an amendment to the original article as reported by the delegate from Washington, (Mr. Lawrence,) and it passed in committee of the whole by more than a two-thirds vote and was rejected upon second reading by a misapprehension.

Mr. BOWMAN. I did not misapprehend the gentleman at all, but he entirely misapprehends me. The gentleman, if he had been here the other day, would have ascertained that there has gone into the article on legislation—

Mr. NILES. I understand that.

Mr. BOWMAN. Precisely—

Mr. NILES. I do not desire to be interrupted.

Mr. BOWMAN. That applies to Luzerne county alone.

Mr. NILES. That has nothing to do with this question. We are now discussing the question of reconsidering the article on new counties and county seats, and the article as passed the other day passed by more than a two-thirds majority and is not inconsistent with the article on legislation. I think I understand the article on legislation as well as the gentleman on the left. That has nothing to do with this question. It simply provides that the Legislature shall pass no local or special law creating new counties, but there is an amendment put to it that any counties containing more than one hundred and sixty thousand inhabitants this article shall not apply to, and that if they do it shall be submitted to and ratified by a majority of the voters of the county.

Those are the amendments that were put in for Luzerne county, and I submit

that this article has nothing to do with that. It stands independent and prescribes the way and manner by which new counties may be organized by virtue of general law. And here I desire the Convention to understand this fact, that if this is reconsidered and the second section stricken out there is nothing to guarantee the people of this Commonwealth that upon this question, so vital to their interests, they shall ever be consulted by a vote of the people. There is nothing in the article on legislation, there is nothing in this first section, that proposes that the people shall ever be consulted upon these questions, and we might as well vote with our eyes open. But the other sections do not propose to consult the people.

And, sir, there is another thing. We have been in session a year. We have outrun the fondest anticipation of every friend of this Convention by the prolongation of our sessions, and shall this thing ever end? That when an article is adopted, and adopted by a two-thirds vote, upon getting some one who voted in the majority to move a reconsideration we shall ever end the labors of this Convention. I hope the motion to reconsider will not prevail, and that we shall stand by the article as it has already passed three times before during the sessions of this Convention.

SEVERAL DELEGATES addressed the Chair.

The PRESIDENT. The yeas and nays have been called for. The Chair will here arrest this discussion. He is free to say that he is clear in his opinion that he erred in permitting the matter to be discussed.

Mr. DUNNING. Will the Chair allow discussion only on one side?

The PRESIDENT. I have heard gentlemen on each side, and the House have heard them, and I think it is time to arrest it. The House can reverse the decision of the Chair, but he now decides that the motion is not open to discussion.

Mr. BEEBE. That a motion to postpone indefinitely is not?

The PRESIDENT. It is a motion to postpone a motion to reconsider and does not bring up the question. It is well established that a motion to reconsider is not debatable; and all that is here is a motion to postpone that motion to reconsider, which is not debatable.

Mr. DUNNING. Is it fair that one side should be fully discussed and not the other?

The PRESIDENT. The Chair will hear no further discussion; but an appeal may be taken and the decision reversed. He certainly will not reverse his own decision, so clear is it in his own mind.

Mr. LAWRENCE. I wish the Chair had made his decision some time ago.

The PRESIDENT. I waited until both sides had been heard.

Mr. LAWRENCE. I ask consent of the Convention, as chairman of the Committee on New Counties, to say one word on this question. ["Aye!" "No!"]

The PRESIDENT. Will the Convention allow the delegate from Washington to be heard?

The question being put, the Chair decided that the noes appeared to have it.

Mr. BOYD. I call for the yeas and nays on that.

Mr. DUNNING. I second the call.

The PRESIDENT. The Chair has decided the question, and will not permit discussion unless the House order it.

Mr. CHURCH. Mr. President: As a friend of this motion ["Question!" "Question!"] and as—

Mr. HUNSICKER. I rise to a point of order. You have ruled that debate is out of order.

The PRESIDENT. I have.

Mr. HUNSICKER. Then I object to any more discussion.

The PRESIDENT. The Clerk will call the names of delegates on the motion to postpone indefinitely the motion to reconsider.

Mr. HAY. Upon this question I am paired with Mr. Parsons, of Lycoming. If he were here he would vote against it, and I for it.

The yeas and nays were taken with the following result:

Y E A S .

Messrs. Achenbach, Baer, Baker, Barclay, Barr, Boyd, Brown, Calvin, Church, Corbett, Cronmiller, Cuyler, Dallas, Dodd, Elliott, Ewing, Gilpin, Guthrie, Hall, Horton, Hunsicker, Landis, MacConnell, Mann, Mantor, Niles, Palmer, H. W., Patterson, D. W., Patton, Reed, Andrew, Reynolds, Ross, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Turrell, White, David N., Wright and Walker,
President—42.

N A Y S .

Messrs. Ainey, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon),

Bannan, Beebe, Biddle, Bigler, Black, Bowman, Brodhead, Broomall, Buckalew, Campbell, Carter, Clark, Corson, Curtin, Darlington, Davis, De France, Dunning, Edwards, Ellis, Fulton, Funck, Gibson, Green, Hanna, Hemphill, Howard, Kaine, Knight, Lamberton, Lawrence, Lilly, Long, M'Clean, M'Culloch, M'Michael, M'Murray, Minor, Mott, Newlin, Palmer, G. W., Purman, Purviance, John N., Purviance, Samuel A., Read, John R., Rooke, Wetherill, J. M., Wetherill, John Price, White, Harry, White, J. W. F. and Woodward—56.

So the motion was not agreed to.

ABSENT.—Messrs. Addicks, Alricks, Bardsley, Bartholomew, Bullitt, Carey, Cassidy, Cochran, Collins, Craig, Curry, Fell, Finney, Harvey, Hay, Hazzard, Heverin, Lear, Littleton, MacVeagh, M'Camant, Metzger, Mitchell, Parsons, Patterson, T. H. B., Porter, Pughe, Runk, Russell, Sharpe, Simpson, Temple, Van Reed, Wherry and Worrell—35.

The **PRESIDENT.** The question now recurs on the motion of the delegate from Delaware (Mr. Broomall) to postpone the consideration of the motion to reconsider for the present.

Mr. **BROOMALL.** I withdraw that motion. I think the whole thing can be disposed of in five minutes if the article is reconsidered, because I understand the parties in interest have agreed upon it.

The **PRESIDENT.** The motion to postpone for the present is withdrawn.

Mr. **H. W. PALMER.** Now the proposition is, on behalf of all the parties interested in this business, to allow the motion to reconsider to be carried for the purpose of striking out the second section. We are agreed to allow this motion to be carried and then to strike out the second section.

The **PRESIDENT.** The question is, shall the final vote on this article be reconsidered?

Mr. **BOYD.** I call for the yeas and nays.

Mr. **H. W. SMITH.** I second the call.

Mr. **HAY.** On this question I am paired with Mr. Parsons, of Lycoming. He would vote against the reconsideration and I for it.

The yeas and nays were taken and resulted as follows:

YEAS.

Messrs. Alricks, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Beebe, Biddle, Bigler, Black, Bowman, Brodhead, Broomall, Buckalew, Camp-

bell, Carter, Cochran, Corson, Cronmiller, Curtin, Darlington, Davis, De France, Dunning, Edwards, Ewing, Funck, Gibson, Green, Guthrie, Hanna, Howard, Kaine, Knight, Lamberton, Lawrence, Lilly, Long, M'Culloch, M'Michael, M'Murray, Minor, Newlin, Palmer, G. W., Palmer, H. W., Porter, Purviance, John N., Purviance, Samuel A., Rooke, Wetherill, J. M., Wetherill, John Price, White, Harry, Woodward and Wright—53.

NAYS.

Messrs. Achenbach, Ainey, Baer, Baker, Barclay, Barr, Boyd, Brown, Calvin, Church, Clark, Corbett, Dallas, Dodd, Elliott, Gilpin, Hall, Horton, Hunsicker, MacConnell, M'Clean, Mann, Mantor, Niles, Patterson, D. W., Patton, Reynolds, Ross, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Turrell, White, David N. and Walker, *President*—37.

So the motion was agreed to.

ABSENT.—Messrs. Addicks, Bannan, Bardsley, Bartholomew, Bullitt, Carey, Cassidy, Collins, Craig, Curry, Cuyler, Ellis, Fell, Finney, Fulton, Harvey, Hay, Hazzard, Heinephill, Heverin, Landis, Lear, Littleton, MacVeagh, M'Camant, Metzger, Mitchell, Mott, Parsons, Patterson, T. H. B., Pughe, Purman, Read, John R., Reed, Andrew, Runk, Russell, Sharpe, Simpson, Temple, Van Reed, Wherry, White, J. W. F. and Worrell—43.

The **PRESIDENT.** The article is before the Convention.

Mr. **BROOMALL.** Mr. President—

Mr. **BOYD.** I call for the orders of the day. I object to any action on this section now.

The **PRESIDENT.** The orders of the day are called.

Mr. **H. W. PALMER.** What are the orders of the day?

The **PRESIDENT.** Resolutions are next in order.

PROPOSED ARTICLE ON TELEGRAPHS.

Mr. **BRODHEAD** submitted the following resolution:

WHEREAS, This Convention has provided for the general and free construction of railroads and canals and also for the organization of mining, manufacturing and other companies by general law:

And whereas, None of the articles thus far reported provide for the free and general construction of telegraph lines; therefore,

Resolved, That the Committee on Corporations are requested to inquire into and report to this Convention as to the propriety of adopting the following article as a part of the new Constitution:

SECTION 1. Any individual, partnership or corporation organized for the purpose, shall have the right to construct and operate telegraph lines between any two points in this State.

The resolution was read twice and adopted.

DISTRIBUTION OF DEBATES.

Mr. DARLINGTON submitted the following resolution:

Resolved, That the Committee on Printing be instructed to report what disposition ought to be made of the Debates acquired under the agreement with the State Printer.

The resolution was ordered to a second reading, and read the second time.

Mr. NEWLIN. I cannot imagine why this resolution should be referred to the Committee on Printing. It is a mere matter of calculation. The action taken this morning will give each member twelve copies and leave a few over. I do not see why the matter should be referred to the Committee on Printing. I will move to amend the resolution, so as to provide that the State Printer send twelve copies to each member. That disposes of the question at once, and leaves four volumes over. I will state for the information of the Convention that there will be a considerable—

The PRESIDENT. Before the delegate proceeds the Chair will state the question. The delegate moves to amend the resolution by striking out that portion which refers the matter to the Committee, and inserting that the State Printer be instructed to send twelve copies to each member. The delegate will proceed.

Mr. NEWLIN. That will leave only four copies of this present acquisition; but there are quite a number of sets of the former edition of the Debates which will be left, and there will be enough for any further distribution amongst public libraries, &c., which this Convention may order. If this amendment be adopted it will dispose of the whole subject without reference to a committee.

Mr. BOYD. Will the chairman of the Committee on Printing allow me to ask him a question?

Mr. NEWLIN. Certainly.

Mr. BOYD. How many of the old sets are left?

Mr. NEWLIN. I do not know exactly, but over a hundred sets.

The PRESIDENT. The question is upon the amendment of the gentleman from Philadelphia.

The amendment was agreed to.

The PRESIDENT. The question is now upon the motion as amended.

The motion as amended was agreed to.

DEALINGS IN STOCKS, &c.

Mr. HOWARD. I offer a resolution and ask that it be referred to the Committee on Private Corporations.

The PRESIDENT. The resolution will be read.

The CLERK read as follows:

"All persons or incorporated companies doing business in this Commonwealth as banker, or that shall make it a part of their business to receive on deposit the money of other persons or institutions, are prohibited from buying or dealing, directly or indirectly, in the stock, bonds or obligations of private corporations, except those engaged exclusively in manufacturing or mining, in any way except as agents for the sale of the same. And the violation of this section shall be a criminal offence, punished as the General Assembly shall by law direct."

The PRESIDENT. The resolution will be referred to the Committee on Private Corporations.

SESSION ON SATURDAY.

Mr. BOWMAN offered the following resolution:

Resolved, That the Convention will hold a session to-morrow from half-past nine o'clock A. M. until one o'clock P. M.

Mr. BOWMAN. I move to proceed to the second reading and consideration of that resolution.

Mr. HUNSICKER. On that I call for the yeas and nays.

Mr. ROSS. I second the call.

YEAS.

Messrs. Achenbach, Ainey, Alricks, Andrews, Baer, Baily, (Perry,) Barclay, Barr, Beebe, Black, Bowman, Brown, Buckalew, Campbell, Carter, Cochran, Corbett, Cronmiller, De France, Edwards, Fulton, Guthrie, Hay, Lawrence, Lilly, MacConnell, M'Culloch, Niles, Palmer, H. W., Patton, Purman, Purviance, John N., Purviance, Sam'l A., Rooke, Smith, H. G. Smith, Wm. H., Struthers, Weth-

erill, Jno. Price, White, David N., Wright and Walker, *President*—41.

N A Y S.

Messrs. Armstrong, Bailey, (Huntingdon,) Baker, Bannan, Biddle, Boyd, Brodhead, Broomall, Calvin, Church, Clark, Corson, Curtin, Dallas, Darlington, Davis, Funck, Gibson, Gilpin, Green, Hanna, Hemphill, Horton, Howard, Hunsicker, Kaine, Knight, Lamberton, Landis, Long, M'Clean, M'Michael, M'Murray, Mann, Mantor, Minor, Newlin, Palmer, G. W., Patterson, D. W., Porter, Read, John R., Reed, Andrew, Reynolds, Ross, Smith, Henry W., Stanton, Stewart, Turrell, Wetherill, J. M., White, Harry and Woodward—51.

So the Convention refused to proceed to the second reading and consideration of the resolution.

ABSENT—Messrs. Addicks, Bardsley, Bartholomew, Bigler, Bullitt, Carey, Cassidy, Collins, Craig, Curry, Cuyler, Dodd, Dunning, Elliott, Ellis, Ewing, Fell, Finney, Hall, Harvey, Hazzard, Heverin, Lear, Littleton, MacVeagh, M'Camant, Metzger, Mitchell, Mott, Parsons, Paterson, T. H. B., Pughe, Runk, Russell, Sharpe, Simpson, Temple, Van Reed, Wherry, White, J. W. F. and Worrell—51.

ADDRESS TO THE PEOPLE.

Mr. HARRY WHITE. I offer the following resolution :

Resolved, That a Committee of one from each senatorial district be appointed to present the result of the labors of this Convention to the people of the State by issuing an address to accompany the new Constitution, and the use of such other means as may be necessary to secure the proper consideration of the same by the voters of the Commonwealth.

I ask leave to make a statement. ["No, no." "No, no."]

The PRESIDENT. The question is upon proceeding to second reading.

Mr. HARRY WHITE. I ask leave to make a statement.

The PRESIDENT. That is not new in order.

Mr. NEWLIN. I move that the delegate from Indiana have leave.

The PRESIDENT. Those who are in favor of the second reading and consideration of this resolution will say aye. ["Aye." "No." "No."] The Convention refuses to read the resolution a second time.

Mr. HARRY WHITE. Mr. President : That was not the motion of my friend from Philadelphia. His motion was to allow me to make a statement.

The PRESIDENT. The gentleman cannot make a statement upon his resolution until it is read the second time, and the Convention has refused to so read it.

PRESIDENTIAL ELECTIONS.

Mr. BUCKALEW. I desire to offer a resolution, requesting that it be read and laid on the table, and then I will offer another :

The PRESIDENT. The resolution will be read.

The CLERK read as follows :

Resolved, That this Convention approve the proposed amendment to the Constitution of the United States, passed by the Senate of the United States in 1869, by which power to regulate the manner of choosing electors of President and Vice President was to be conferred upon Congress, and by which the choice of electors by State Legislatures was forbidden.

The PRESIDENT. The resolution will be laid upon the table.

EVENING SESSION ON MONDAY.

Mr. BUCKALEW. Now, I offer the following resolution :

Resolved, That a session of the Convention be authorized for Monday evening next, commencing at half-past seven o'clock, at which debate only shall be in order, without limitation under the ten-minute rule.

I will ask the Convention to go to second reading, and then I will explain.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted forty-one in the affirmative, twenty-six in the negative. So the resolution was ordered to be read the second time.

The CLERK again read the resolution.

Mr. JOSEPH BAILY. I offer the following amendment—

Mr. HOWARD. I move that the resolution be postponed indefinitely.

Mr. JOSEPH BAILY. I have the floor, and you cannot take it from me in that manner.

The PRESIDENT. The gentleman from Perry will state his amendment.

Mr. JOSEPH BAILY. I move to amend, by adding as follows :

"And that the speakers be required to furnish a copy of their speeches, and that

the stenographers be not required to be in attendance."

I make that motion in good faith. We are proposing to put an almost intolerable duty upon these reporters.

Mr. DUNNING. I move to further amend, by adding: "Within one week after the time delivered."

Mr. HOWARD. I desire to add:

"And that the speeches be all printed beforehand." [Laughter.]

Mr. DARLINGTON. May I ask a question?

The PRESIDENT. Yes, sir.

Mr. DARLINGTON. Will the gentleman from Columbia be good enough to state what subject he expects to have debated?

Mr. BUCKALEW. When I get an opportunity I will speak to my resolution. I do not propose to offer any resolution in this Convention that I am not prepared to support.

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

Mr. BUCKALEW. I do not desire to speak to that.

The amendment was rejected.

The PRESIDENT. The question is on the resolution.

Mr. BUCKALEW. The resolution which I have just offered, and which was laid on the table at my instance, I propose to call up, if the session is ordered, on Monday evening, in order to allow two or three members of the Convention and myself to have an opportunity of speaking upon it, and if at the end of that debate gentleman are disposed to have a vote upon it, such vote can be taken without delay and without interrupting the ordinary business of the Convention.

In 1869 the Senate of the United States, after a full debate, passed a proposition of amendment to the Constitution of the United States, such as is indicated in my resolution, conferring upon Congress the power of regulating the manner of choosing presidential electors throughout the country, and forbidding any State Legislature to assume, to usurp to itself, as South Carolina formerly did, and as Florida does now, the power of choosing electors and depriving the people of the privilege of voting for them. That amendment failed in the House of Representatives, mainly on account of the near approach of the time of adjournment and the impossibility of considering it.

At the last session of Congress Mr. Senator Morton, of Indiana, had a select

committee appointed to consider this whole question. That committee recently met in the city of New York, and it will at the next session of Congress make a report. Now, sir, our State is one of the States principally interested in this question of the manner of selecting the chief magistrate of the United States. Ours is the only State where a full convention is now in session able to pronounce an opinion upon this subject, and I propose that this Convention, representing the people of Pennsylvania, shall express their opinion, which action, without sacrifice of time that ought to be devoted to other subjects, shall be eventually communicated through our representatives in the Senate of the United States for the information of that body as to the drift of public opinion in this State.

Sir, I have to say that Mr. Senator Morton deserves the thanks of the whole people of the United States for the action which he has taken upon this subject recently, as well as for his participation in the action of the Senate of the United States in 1869; for the danger of a disputed presidential election is the great danger which menaces the future of the people of the United States. There is no danger of revolution or of civil war within our borders during the lifetime of any man here or of the children of any man here, except from this single cause—a cause or one analogous to which in our own State in 1830 almost kindled the flames of civil war—a cause which throughout the Spanish American Republics, modeled after our own, produces revolutions at recurring periods.

Mr. HOWARD. I rise to a point of order. My point of order is that nothing whatever that the delegate from Columbia has proposed in this matter, nor anything in his speech, relates to our duties as members of this Convention, and we have wasted the time now until twelve o'clock upon other matters, and we have not yet arrived at the work that we were upon yesterday. I sincerely hope if delegates wish to make speeches on this subject that the Hall be allotted to them and they have it, but not as a Convention will we meet here to hear the subject discussed. We have no right to take any action upon it in any possible sense, because the people do not expect it to be considered by us.

The PRESIDENT. It is impossible for the Chair to sustain the point of order. He does not know but that the matter

under consideration may be applicable for some purpose for which we have met, though the chair is free to say he cannot see it.

Mr. HEWARD. Nor can anybody else. But if our time is to be wasted until we can do no business—"Order!" "Order!"

The PRESIDENT. The delegate from Columbia will proceed.

Mr. BUCKALEW. If the gentleman is through with his very elaborate point of order I will proceed, in a very few words, with what I have to say at this time. As he seems impatient, I shall not weary him by proceeding to point out, in the line of remark in which I was engaged, the reasons why an amendment to the Federal Constitution, of the character I have indicated, should be proposed and accepted.

What I desire to say, then, in conclusion, is that on Monday evening, if this session be ordered, I shall move to take up the resolution just offered by me, and which is lying on the table, on this subject, with the intention of having it discussed, and confining the session to the single question raised by it.

The PRESIDENT. The question is on the resolution.

The question being put, a division was called for and the ayes were forty-five.

Mr. AINEY. I call for the yeas and nays.

Mr. HOWARD. I second the call.

Mr. GIBSON. I should like to ask a question: If this Convention resolve to have a session on Monday night, will there be a call of the House? In other words, will members be compelled to attend?

SEVERAL MEMBERS. No; certainly not.

Mr. DE FRANCE. I shall vote for this thing. I think it is fully as important as Simmons and Slocum's or Carnross and Dixey's, or any of the places where members usually go at nights. [Laughter.]

The yeas and nays were taken with the following result:

Y E A S .

Messrs. Achenbach, Alricks, Armstrong, Bailey, (Huntingdon,) Barclay, Beebe, Bigler, Black, Bowman, Boyd, Brodhead, Brown, Buckalew, Campbell, Carter, Church, Clark, Cochran, Corbett, Corson, Cronmiller, Cuyler, DeFrance, Dodd, Elliott, Ellis, Gibson, Green, Guthrie, Hay, Kaine, Knight, Landis, Lawrence, Long, M'Call, M'Michael, Palmer, G.

W., Palmer, H. W., Patton, Purman, Purviance, Sam'l A., Read, John R., Rooke, Ross, Smith, Wm. H., Stanton, Stewart, Turrell, Wetherill, John Price, White, Harry, Woodward and Wright—58.

N A Y S .

Messrs. Ainey, Andrews, Baer, Baily, (Perry,) Baker, Bannan, Biddle, Calvin, Curtin, Dallas, Darlington, Davis, Edwards, Ewing, Fulton, Funck, Gilpin, Hall, Hanna, Hemphill, Horton, Howard, Hunsicker, Lilly, MacConnell, M'ulloch, Mantor, Minor, Newlin, Niles, Patterson, D. W., Porter, Purviance, John N., Reed, Andrew, Reynolds, Smith, Henry W., Struthers, White, David N., and Walker, *President*—39.

So the resolution was agreed to.

ABSENT.—Messrs. Addicks, Bardsley, Barr, Bartholomew, Broomall, Bullitt, Carey, Cassidy, Collins, Craig, Curry, Dunning, Fell, Finney, Harvey, Hazzard, Heverin, Lamberton, Lear, Littleton, MacVeagh, M'Camant, M'Murray, Mann, Metzger, Mitchell, Mott, Parsons, Patterson, T. H. B., Pughe, Runk, Russell, Sharpe, Simpson, Smith, H. G., Temple, Van Reed, Wetherill, J. M., Wherry, White, J. W. F. and Worrell—41.

NEW COUNTIES.

Mr. H. W. PALMER. Inadvertently the order of the day cut off the question of the reconsideration of the article on new counties.

The PRESIDENT. The Chair does not think so.

Mr. H. W. PALMER. For the purpose of keeping the Journal straight, I move that we proceed to consider the question of reconsideration on that article. The question recurs now, "shall the article pass?" and I move that the Convention go into committee of the whole for the purpose of striking out the second section of the article and settling the new county question finally and forever.

The PRESIDENT. The delegate from Luzerne moves to proceed to the consideration of the article on new counties, number thirteen.

The motion was agreed to.

Mr. H. W. PALMER. I now move that the Convention resolve itself into committee of the whole for the purpose of striking out the second section of that article.

Mr. HUNSICKER. I call for the yeas and nays on that motion.

Mr. HEMPHILL. I second the call.

SEVERAL DELEGATES. Let it be read.
The CLERK read as follows:

"SECTION 2. No county shall be divided or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of the legal voters of the county voting on the question shall vote for the same."

Mr. H. W. PALMER. I simply desire to state that I was in favor of this section, and am in favor of it now; but for the purpose of harmonizing conflicting views and settling the new county question so that it will never trouble us any more, I have agreed that this section shall be stricken out.

Mr. H. W. SMITH. Why not strike out the first section?

Mr. TURRELL. Like the gentleman from Luzerne, I was in favor of the section, but unlike him I am in favor of it still. This Convention placed it there by a large majority, and I hope the gentlemen who voted for it will adhere to it. There is to my mind a manifest propriety in allowing the people of a county to dispose of a question like this. Why should we not allow the people to vote on any question?

Mr. HARRY WHITE. Perhaps it would be well to have the first section of the article read for information, in order that we may understand it.

The PRESIDENT. The first section will be read.

The CLERK read as follows:

SECTION 1. No new county shall be established which shall reduce any county to less than four hundred square miles, or to less than twenty thousand inhabitants; nor shall any county be formed of less area or containing a less population; nor shall any line thereof pass within ten miles of the county seat of any county proposed to be divided.

Mr. HAY. As I before stated, I am paired on this question with the gentleman from Lycoming (Mr. Parsons.)

The yeas and nays were taken with the following result:

YEAS.

Messrs. Achenbach, Ainey, Andrews, Armstrong, Baily, (Perry,) Barr, Bartholomew, Beebe, Biddle, Bigler, Black, Bowman, Brodhead, Broomall, Buckalew, Calvin, Campbell, Carter, Cochran, Corson, Curtin, Dallas, Davis, De France, Danning, Edwards, Ewing, Funck, Gib-

son, Green, Guthrie, Hanna, Hazzard, Howard, Kaine, Lawronce, Lilly, Long, MacConnell, M'Michael, Minor, Newlin, Palmer, G. W., Palmer, H. W., Patterson, D. W., Porter, Purman, Purviance, John N., Purviance, Samuel A., Read, John R., Smith, Wm. H., Stewart, Wetherill, J. M., Wetherill, Jno. Price, White, Harry and Woodward—56.

NAYS.

Messrs. Alricks, Baer, Bailey, (Huntingdon,) Baker, Bannan, Barclay, Boyd, Brown, Church, Clark, Corbett, Crommiller, Darlington, Dodd, Elliott, Ellis, Fulton, Gilpin, Hemphill, Horton, Hunsicker, Knight, Landis, M'Clean, M'Culloch, Mann, Mantor, Niles, Patton, Reed, Andrew, Reynolds, Ross, Smith, H. G., Smith, Henry W., Stanton, Struthers, Turrell, Wright and Walker, *President*—39.

So the motion was agreed to.

ABSENT.—Messrs. Addicks, Bardsley, Bullitt, Carey, Cassidy, Collins, Craig, Curry, Cuyler, Fell, Finney, Hall, Harvey, Hay, Heverin, Lamberton, Lear, Littleton, MacVeagh, M'Camant, M'Murray, Metzger, Mitchell, Mott, Parsons, Patterson, T. H. B., Pughe, Rooke, Runk, Russell, Sharpe, Simpson, Temple, Van Reed, Wherry, White, David N., White, J. W. F. and Worrell—88.

The Convention accordingly resolved itself into committee of the whole, Mr. G. W. Palmer in the chair.

The CHAIRMAN. The committee of the whole have had referred to them the article on new counties with instructions to strike out the second section. That amendment will be made.

The committee rose, and the President having resumed the chair, the Chairman (Mr. G. W. Palmer) reported that the committee of the whole had made the amendment referred to them.

The PRESIDENT. The question recurs on the final passage of the article as amended.

The article was passed.

LEGISLATION.

Mr. LILLY. In view of the settlement of this new county question, the members from Luzerne county have agreed to ask the unanimous consent of the body to strike out the amendment which was made to the tenth section of the article on legislation, allowing the formation of counties containing not less than one

hundred and sixty thousand inhabitants and an area of not less than twelve hundred square miles. I objected at the time. I now ask unanimous consent to strike out these words.

Mr. HEMPHILL and Mr. BOYD. I object.

The PRESIDENT. Objection is made, and the article is not before the Convention.

RAILROADS AND CANALS.

Mr. COCHRAN. I move that the Convention proceed to the consideration of the article on railroads and canals.

The motion was agreed to, and the consideration of the article on railroads and canals was resumed on third reading.

The PRESIDENT. When the Convention adjourned yesterday the pending question was upon the motion of the delegate from Columbia (Mr. Buckalew) to go into committee of the whole for the purpose of striking out section seven and inserting a substitute which will be read.

The CLERK read as follows:

"No president, director, officer, agent or employee of any railroad or canal company shall be interested, directly or indirectly, otherwise than as a stockholder of such company in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company."

Mr. BIGLER. I do not rise to discuss this question at any length. I think the amendment meets the object of the original section perfectly, and I shall vote for it. But I desire to give notice of another amendment when this one is disposed of. I have been apprehensive that the Convention might dispose of the article so rapidly that it would be impossible to offer the amendment, but I take this occasion to say that I think it is an amendment which the Convention will listen to and will be glad to accept.

Mr. COCHRAN. I think this amendment proposed by the delegate from Columbia ought to be adopted in place of the seventh section, and I hope it will receive the approbation of the House.

The PRESIDENT. The question is on the motion of the delegate from Columbia (Mr. Buckalew.)

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

The CHAIRMAN. The committee of the whole have had referred to them the

article on railroads and canals, with instructions to strike out the seventh section and insert a substitute. The amendment will be made.

The committee rose, and the President having resumed the chair the Chairman (Mr. John R. Read) reported that the committee of the whole had made the amendment referred to them.

Mr. BIGLER. I now move that the Convention resolve itself into committee of the whole for the purpose of amending the eighth section, by striking therefrom all all after the word "void," in the seventh line, which will be these words: "and no railroad corporation, nor any lessee or manager of the works thereof, shall make any preference in their own favor or between individuals, partnerships and companies shipping and transporting thereon, in furnishing cars or motive power."

Mr. President, I bring this question before the Convention at the instance of one of the most experienced transporting men in this country. His motive in all this I know to be perfectly pure. He says it is virtually impossible to carry out the conditions of these words which I propose to strike out. In the first place it will be seen that the company is forbidden to discriminate in favor of itself. One of the commonest difficulties in railroad transportation at this time is the want of cars and motive power, and it is not an uncommon thing for a railroad to be in serious trouble to meet exigencies. Under this clause the company would be obliged to give their cars, or *pro rata* of their cars, to any party who might apply.

There is another reason which is assigned against this clause and making it impracticable, and that is that there is a large portion of transportation that is permanent and continues day by day, and the railroad company agree to furnish a certain number of cars, or motive power and cars, for a certain amount of business. That agreement they have to carry out. There is another class of business that is temporary, fluctuating, very large for a few days, and then none for many more. As an illustration I will take my own region of country. The coal business there is about alike every day; the demand is constant, and that demand exhausts all the cars that can be had. There is another branch of business, such as fire-brick, which after the burning of the kilns, furnishes a large

amount of tonnage for a very brief period. Now, if you put the railroad companies in a position that they must accede to the demands of those who come temporarily, against those who have permanent contracts, it will be impossible to carry them out. The only way is to adjust this business in that reasonable way that men do anything else. These terms are entirely too rigid to be placed in the Constitution, which, I suppose, will be held to be self-adjusting, to be administered directly upon the operations of the railroad, without any interposition whatever of the Legislature. They will serve no good end. So far as equality among transporters is concerned, there is abundant protection in the article in addition to this. There is very much similar to this in the ninth section. I trust these words will be stricken out.

Mr. HOWARD. I hope these words will not be stricken out. They were put in here after a great deal of deliberation. They were put in here for good reasons. They were put in here because of the experience of shippers in this Commonwealth, and because men have been ruined by the fact that these discriminations have been made against them and their business in the furnishing of cars.

Mr. President, it is most extraordinary that when we get communications such as I understand the delegate from Clearfield to make here, from very intelligent railroad men, somehow or other they are not willing to work under a principle that is to do justice to all alike. It is a most extraordinary proposition. I know that men in the west have been ruined and their business broken up and destroyed because of the refusal of the railroads to furnish them cars. While they would load cars and furnish cars—plenty of them, any quantity of them—for some men because a certain set were interested in the business, others could not get cars loaded, could not get them furnished, and they have been driven out of the business.

Now, Mr. President, we understand that all general rules will perhaps work some hardship. Perhaps they will not work exactly to suit everybody. It does not suit every man to apply a rule that will compel every man to be honest, because some people do not want to work by such a rule. But in making a Constitution for the people of this Commonwealth, I say we should fail in our duty

if we neglect to lay down a rule so fair and equitable as this.

Mr. COCHRAN. It should be observed in regard to all these corporations that originally they were intended to be distinctly public highways upon which each citizen should have the right of transporting his own cars and machinery; but the practice has become different, and the companies themselves have absorbed the transportation on their own roads to the exclusion of private parties. Wherever they think proper to do so, they exercise that right. Now, sir, is it not just that the equality between transporters on those roads should be preserved, that something like a rule should be laid in this Constitution by which this should be effected? As the gentleman from Allegheny has said, this section has been thoroughly considered by the Committee on Railroads; it has passed this Convention twice under the fire of a heated discussion, and I hope the Convention will abide by its decision.

Mr. BIGLER. I ask for the yeas and nays on this motion. I know it to be of the greatest importance.

Mr. KAINE. I second the call.

The yeas and nays were taken with the following result:

Y E A S.

Messrs. Armstrong, Barr, Bigler, Black, Brodhead, Broomall, Buckalew, Clark, Corbett, Corson, Curtin, Darlington, Dunning, Edwards, Ellis, Fulton, Green, Hall, Hanna, Hunsicker, Kaine, Knight, Lilly, M'Michael, Mann, Niles, Patton, Porter, Purman, Purviance, John N., Read, John R., Reed, Andrew, Ross, Smith, Wm. H., Stanton, Stewart, Wetherill, John Price and Walker, *President*—38.

N A Y S.

Messrs. Achenbach, Ainey, Alricks, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Beebe, Biddle, Bowman, Calvin, Campbell, Carter, Church, Cochran, Cronmiller, Davis, De France, Funck, Gibson, Gilpin, Guthrie, Hay, Hazzard, Hemphill, Horton, Howard, Landis, Lawrence, Long, MacConnell, M'Clean, M'Culloch, Mantor, Minor, Newlin, Palmer, G. W., Palmer, H. W., Patterson, D. W., Purviance, Sam'l A., Reynolds, Smith, Henry W., Struthers, Turrell, Wetherill, J. M., White, David N., Woodward and Wright—49.

So the motion was not agreed to.

ABSENT.—Messrs. Addicks, Andrews, Barclay, Bardsley, Bartholomew, Boyd, Brown, Bullitt, Carey, Cassidy, Collins, Craig, Curry, Cuyler, Dallas, Dodd, Elliott, Ewing, Fell, Finney, Harvey, Heverin, Lamberton, Lear, Littleton, MacVeagh, M'Camant, M'Murray, Metzger, Mitchell, Mott, Parsons, Patterson, T. H. B., Pughe, Rooke, Runk, Russell, Sharpe, Simpson, Smith, H. G., Temple, Van Reed, Wherry, White, Harry, White, J. W. F. and Worrell—46.

Mr. J. M. BAILEY. Mr. President: Yesterday I voted against the motion of the delegate from Carbon (Mr. Lilly) to strike out the tenth section. I voted against the motion believing that the substitute submitted by the gentleman from Allegheny (Mr. S. A. Purviance) at the time would be passed. That being rejected, I now move to reconsider the vote on the motion of the delegate from Carbon to strike out the tenth section.

The PRESIDENT. Who seconds the motion to reconsider?

Mr. DAVIS. I second the motion.

The PRESIDENT. Did both gentlemen vote in the majority?

Mr. J. M. BAILEY and Mr. DAVIS. Yes.

The PRESIDENT. It is moved to reconsider the vote by which the Convention refused yesterday to agree to the motion of the delegate from Carbon (Mr. Lilly) to strike out the tenth section.

Mr. CORBETT. I call for the yeas and nays.

Mr. ALRICKS. I second the call.

The yeas and nays were taken with the following result:

Y E A S.

Messrs. Alney, Armstrong, Bailey, (Huntingdon,) Bannan, Biddle, Bowman, Broemall, Corbett, Davis, Elliott, Gibson, Gilpin, Hanna, Hay, Hemphill, Howard, Hunsicker, Kaine, Lilly, Long, MacConnell, M'Michael, Niles, Reed, Andrew, Stanton, Turrell, Wetherill, J. M., Wetherill, John Price, White, Harry and Wright—30.

N A Y S.

Messrs. Achenbach, Alricks, Baer, Bailly, (Perry,) Baker, Barr, Bigler, Black, Boyd, Brodhead, Brown, Buckalew, Calvin, Campbell, Carter, Cassidy, Church, Clark, Cochran, Corson, Cronmiller, Curtin, Darlington, De France, Edwards, Ewing, Finney, Fulton, Funck, Guthrie, Hall, Horton, Knight, Landis, Lawrence, M'Clean, M'Culloch, Mann, Mantor, Minor,

Newlin, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patton, Purman, Purviance, John N., Purviance, Sam'l A., Reynolds, Rooke, Ross, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stewart, Struthers, Temple, White, David N., Woodward and Walker, *President*—60.

So the motion was not agreed to.

ABSENT.—Messrs. Addicks, Andrews, Barclay, Bardale, Bartholomew, Beebe, Bullitt, Carey, Collins, Craig, Curry, Cuyler, Dallas, Dodd, Dunning, Ellis, Fell, Green, Harvey, Hazzard, Heverin, Lamberton, Lear, Littleton, MacVeagh, M'Camant, M'Murray, Metzger, Mitchell, Mott, Parsons, Patterson, T. H. B., Porter, Pughe, Read, John R., Runk, Russell, Sharpe, Simpson, Van Reed, Wherry, White, J. W. F. and Worrell—43.

Mr. J. N. PURVIANCE. I move to go into committee of the whole for the purpose of striking out in the second section, all from the word "bondholder," in the third line, to the word "corporation," in line four, the words to be stricken out being, "or any other person having any pecuniary interest in such corporation."

It strikes me that after we allow an inspection of the books by the stockholders and bondholders, we are going a step too far to also require the companies to exhibit their books to any person "having any pecuniary interest in such corporation."

A man may have a very small or a very large pecuniary interest; it may be five dollars or it may be thousands of dollars; but his right under the Constitution is equal to go and harass and annoy and vex the officers of the company by demanding an inspection of the books. I take it that that would be unreasonable, and therefore the words which I proposed to strike out, the Convention will at once see the propriety of striking out. The bondholder and the stockholder have a right to inspect the books. A person having a pecuniary interest would also have the right if these words remain. I move, therefore, that the Convention go into committee of the whole for the purpose of striking them out.

The PRESIDENT. The question is on the motion of the delegate from Butler.

The motion was not agreed to.

Mr. HEMPHILL. I move to go into committee of the whole for the purpose of amending the article by the addition of the following section:

The General Assembly shall enforce by appropriate legislation the provisions of this article.

Mr. DARLINGTON. It strikes me that that provision would be more appropriate as applicable to the whole Constitution. "They shall enforce the whole of the provisions of the Constitution by appropriate legislation." If the gentleman will so modify it and put it in the right place, I will vote for it.

Mr. HEMPHILL. My object in moving it here is to give some vitality to the various sections of this article, which would otherwise amount to nothing, as in the case of the tenth section; it is worth nothing unless we compel the Legislature to enforce it.

Mr. HOWARD. Nearly all the sections are in the same condition. It is really necessary that something of this kind should be done, and it certainly is good for this article. If the delegate from Chester (Mr. Darlington) would like to have it applicable to the whole Constitution, he can make it applicable if he likes, but it certainly is proper that it should be done for this article.

The PRESIDENT. The question is on the motion of the delegate from Chester (Mr. Hemphill.)

The question being put, a division was called for, and the ayes were thirty-six.

Mr. EDWARDS. I call for the yeas and nays.

Mr. BEEBE. I second the call.

The yeas and nays were taken with the following result:

Y E A S.

Messrs. Ainey, Alricks, Baer, Bally, (Perry,) Bailey, (Huntingdon,) Baker, Black, Boyd, Brodhead, Brown, Calvin, Campbell, Cassidy, Church, Cochran, Corson, Curtin, Ellis, Ewing, Finney, Funck, Gibson, Gilpin, Guthrie, Hall, Hemphill, Horton, Howard, Hunsicker, Landis, Lawrence, M'Clean, M'Culloch, Newlin, Patterson, D. W., Patton, Purviance, John N., Purviance, Samuel A., Read, John R., Reynolds, Ross, Smith, Henry W., Struthers, White, David N. and White, Harry—45.

N A Y S.

Messrs. Achenbach, Armstrong, Bannan, Barr, Beebe, Biddle, Bowman, Broomall, Buckalew, Clark, Corbett, Cronmiller, Cuyler, Darlington, Davis, De France, Edwards, Elliott, Fulton, Hanna, Hay, Hazzard, Kaine, Knight, Lilly, Long,

MacConnell, Mann, Manter, Niles, Palmer, G. W., Porter, Purman, Rood, Andrew, Rooke, Smith, Wm. H., Stanton, Stewart, Turrell, Woodward and Walker, President—41.

So the motion was agreed to.

ABSENT.—Messrs. Addicks, Andrews, Barclay, Bardsley, Bartholemow, Bigler, Bullitt, Carey, Carter, Collins, Craig, Curry, Dallas, Dodd, Dunning, Fell, Green, Harvey, Heverin, Lamberton, Lear, Littleton, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Minor, Mitchell, Mott, Palmer, H. W., Parsons, Patterson, T. H. B., Pughe, Runk, Russell, Sharpe, Simpson, Smith, H. G., Temple, Van Reed, Wetherill, J. M., Wetherill, John Price, Wherry, White, J. W. F., Worrell and Wright—47.

The Convention accordingly resolved itself into committee of the whole, Mr. Barr in the chair.

The CHAIRMAN. The committee of the whole have had referred to them an amendment to be added to the article, as follows:

"The General Assembly shall enforce, by appropriate legislation, the provisions of this article."

The section will be inserted.

The committee rose and the President having resumed the chair, the Chairman, (Mr. Barr) reported that in accordance with the instructions of the House the amendment directed had been inserted.

Mr. COCHRAN. I move to go into committee of the whole for the purpose of inserting in the eighth line of the fourth section, after the word "distance," the words "from the point of shipment," and of striking out the word "fifty," in the same line, and inserting "thirty," so as to read:

"That reasonable extra rates, within the limits of the charter of the company, may be made in charges for any distance from the point of shipment not exceeding thirty miles."

I hope the Convention will agree to go into committee of the whole for the purpose of making this amendment. The distance of fifty miles is entirely too great. Thirty miles is a sufficient distance to compensate for all the inconveniences that can be occasioned by the change of loading, the demurrage of cars or anything of that kind on a short trip. This clause of the section was inserted on second reading, not on the motion of any member of the Committee on Railroads, and was inserted with this length of fifty

miles in it, which is entirely too great a distance. I hope, therefore, that it will be reduced to thirty miles, which will make it reasonable and just, and be an adequate compensation for all the extra expense which may be occasioned.

Mr. KNIGHT. I hope this change will not be made. I think thirty miles is entirely too short. There is a great expense in loading and unloading merchandise on and from cars. I think fifty miles is little enough.

The PRESIDENT. The question is on the motion of the delegate from York (Mr. Cochran.)

The motion was not agreed to.

Mr. BROOMALL. As I understand it now, the question is upon the article.

The PRESIDENT. It is.

Mr. BROOMALL. I desire then to say a few words against the article.

Mr. KAINE. Will not the gentleman suspend his remarks to allow me to offer an amendment? I have been waiting for some time for an opportunity.

Mr. BROOMALL. I am afraid that the previous question will soon be called, and I shall be deprived of the opportunity of saying what I think I ought to say at this time, in a very few words.

The PRESIDENT. The delegate will proceed.

Mr. BROOMALL. There are some things in this article that I would desire to vote for—a part of the first section and parts of two or three other sections that I consider almost absolutely necessary; but the mass of the article is composed of such crude matter, almost unfit for legislation, and is generally so bad, that I shall be compelled reluctantly to vote against the entire article.

I come here desiring to do something in this direction; but some time ago I saw that in the effort to grasp too much we should fail to do anything, and I now apprehend that this article will go before the people in such shape that it will carry down our Constitution with it, and that, too, whether or not we submit it to a separate vote. I grant that the article itself, by raising popular prejudice against corporations, might pass; but the corporate interests arrayed against it will fight something else and will hold some other obnoxious feature up before the people, and by that means will secure a vote against the entire Constitution and probably defeat it. I strongly desire that this should be avoided and also that we

should do the good in our power without undertaking to do more than we can do.

The first portion of the first section I consider necessary in this State. I regard it as absolutely necessary that there should be the most unlimited competition in railroads, that no corporation should have the power to prevent any other from running a railroad anywhere where the damages caused are paid. I look upon that as vital because it will prevent the railroads that have controlled the Legislature heretofore and have crushed out the little ones from doing that thing. I am in favor of little railroads, small railroads, short railroads, small companies. These are what will develop the resources of the State. I am opposed to the big ones, and I know no way of controlling the large ones, but by allowing the unlimited competition which is secured by the first part of the first section.

The second section I look upon as good enough for legislation in its primary objects; but as containing a provision—that moved to be stricken out a little while ago by the gentleman from Butler—that looks to me to be striking at the roots of the manner of conducting this kind of business by allowing anybody to inspect a company's books.

The third section is provided for as far as it ought to be in the article on taxation. I am in favor of the third section; and if it were not otherwise provided for by requiring the Legislature to tax in classes so that they cannot tax any particular corporation more than another, I would have no objection to voting for the section. As I have said, however, the subject is provided for elsewhere.

The fourth section I look upon as very objectionable. Why, sir, under that section a burning city within twenty miles of this town, if there were such, (and there are two or three within thirty miles,) could not have the fireman and the fire machinery of the city of Philadelphia taken there for nothing, although the railroads would be glad to do it. Why, sir, only a little while ago the city of Chicago was laid in ruins and the railroads of the country united in taking provisions to that city and in taking people there for the purpose of repairing the injury that was done, without charge, and it was to the credit of the age that even some of those efforts were made across the ocean. Under this section, England landing her resources for burning Chicago at Philadelphia, would be

gravely told that they could not be carried there except upon the same terms that the company would carry a load of mules from here to Pittsburg. I look upon the proposition as monstrous. I grant that there may be evils; but the section is so crudely drawn that it is striking against christianity itself whenever christianity has entered into the management of railroads, which has been always when there has been some great object of mercy to be attained somewhere within their reach.

Mr. S. A. PURVIANCE. Does not that section allow the issue of commutation tickets?

Mr. BROOMALL. It allows the railroads to issue commutation tickets, and it allows them to charge more if the burning city is within the distance of Wilmington, but not less for transporting firemen and fire engines there. Extra charges may be made but no less if the distance is within fifty miles. So much for the fourth section. I do not see how members consented to let the section remain in the article in the shape in which it is. Grant that the object was good, yet the means of getting at it have been so wretchedly bad that it embraces greatly more bad than good.

I look upon the object of the fifth section as good, and probably good here, certainly good for an act of the Legislature, and I should like to vote for it, but the wording of it is very bad, as any one who will read it will see.

The sixth section is possibly good, and I would even vote for that by itself.

The object of the seventh section is good but the subject is a matter wholly for the Legislature, and if we can fix it as it is here, the Legislature will have to call another Convention or provide some way to have it changed before two years.

The eighth section is very strange. What! The president and manager of a railroad, with a car ready to start loaded, are confronted with my locomotive and my car right before it, desiring to run upon the same track the other way, and I claim the right because it is secured to me here, to run equally with them; and it depends upon which locomotive is the strongest which succeeds. What! That anybody may run his locomotive and cars anywhere, in any direction on a railroad, periling human life everywhere! The thing is monstrous. While railroad traveling exists it must be, for the protection of human life, under the control of some-

body, and there cannot be equal rights upon it of everybody; it is utterly impossible. Somebody must have the prior right to occupy the track. Make it whomsoever you will, but do not give it to everybody at once, or we shall have what the western editor described as a great failure in an instance in which he saw the attempt of two railroad trains to pass one another going in opposite directions on the same track.

The ninth section is bad because it is discriminating in favor of any State but Pennsylvania, and if this article had been framed in New Jersey I would understand it. Philadelphia is here anxious to spread all around the country her manufacturing enterprises, anxious to go everywhere, in all directions, and we legislate against them in Pennsylvania, discriminate against them and allow them to go over into New Jersey. This article should be properly called an article to induce the city of Philadelphia to spread eastward and prevent it from spreading westward.

Then the next section, section ten, is in effect a section to prohibit a man from taking a stranger in his own wagon and carrying him ten miles, because it amounts to about that. But I do not intend to talk about it. It is only foolish, and I do not care anything about it.

Sections eleven and twelve and thirteen are out. Then comes the other twelfth section, which is rather far-stretched.

"No railroad, canal or other transportation company, in existence at the time of the adoption of this article, shall have the benefit of any legislation by general or special laws."

Aye, if we pass a law protecting railroad officers and people generally from being killed at a given hour in the night, inasmuch as railroad conductors are within that category, what is the law on that subject with regard to railroad conductors? Nobody knows. Can they not have the advantage of that legislation under this article? I do not know. Nobody else here knows, and I doubt very much if the Supreme Court, if it were applied to, could give us any information upon that subject.

Upon the whole, I desire to say that I came here with the desire to do something in this direction, but I am compelled to vote against this article, with the hope that we may yet get something that will not do more harm than good.

Mr. HOWARD. I have listened to the delegate from Delaware, (Mr. Broomall,)

and I have very serious doubts whether he intends to vote for this article or any other. I do not know that he intends to vote for any part of this Constitution; but I intend to vote for it, and if the friends of this railroad article had kept it in its proper place after it passed third reading, it would have been all well enough. But after closing it yesterday, it was opened in order to allow the delegate from Columbia to introduce a section. That section was inserted this morning, and I had no objection to it. The delegate had prepared a section to take the place of the seventh section of the article that I considered an improvement. That section was not a work of the Railroad Committee. It was prepared by a single delegate from Philadelphia, and inserted upon second reading.

Now, Mr. President, I call for the previous question on the article; I hope the call will be sustained by the Convention, and that the friends of this article will now take charge of it.

The PRESIDENT. The previous question is called. Those delegates seconding the call will rise.

Messrs. Carter, Cochran, MacConnell, S. A. Purviance, Newlin, Church, Hazard, Bowman, Reynolds, Curtin, Mantor, Rooke, Baker, D. N. White, Guthrie, H. G. Smith, Joseph Bally, Barr, Struthers, Funck and Stanton rose.

The PRESIDENT. The call for the previous question is sustained by the requisite number. The question now is, shall the main question be now put?

Mr. CORBETT. On that question I call for the yeas and nays.

Mr. HEMPHILL. I second the call.

The yeas and nays were taken, and were as follow, viz:

YEAS.

Messrs. Achenbach, Bally, (Perry,) Baker, Barr, Beebe, Bowman, Calvin, Campbell, Carter, Church, Cochran, Davis, Finney, Funck, Guthrie, Hall, Hazard, Horton, Howard, MacConnell, M'Culloch, Mann, Mantor, Newlin, Purviance, Samuel A., Reynolds, Rooke, Smith, Wm. H., Stanton, Struthers, White, David N. and Woodward—32.

NAYS.

Messrs. Ainey, Alricks, Armstrong, Bailey, (Huntingdon,) Biddle, Bigler, Black, Boyd, Brodhead, Broomall, Brown, Buckalew, Cassidy, Clark, Corbett, Cor-

son, Cronmiller, Curtin, Dallas, Darlington, Dunning, Elliott, Ellis, Ewing, Fulton, Gibson, Gilpin, Hanna, Hay, Hemphill, Hunsicker, Kaine, Knight, Landis, Lawrence, Lilly, Long, M'Clean, Minor, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Patton, Purman, Purviance, John N., Read, John R., Reed, Andrew, Ross, Smith, H. G., Smith, Henry W., Stewart, Turrell, Wetherill, John Price, White, Harry, Wright and Walker, *President*—58.

So the Convention refused to order the main question to be now put.

ABSENT.—Messrs. Addicks, Andrews, Baer, Bannan, Barclay, Bardsley, Bartholomew, Bullitt, Carey, Collins, Craig, Curry, Cuyler, De France, Dodd, Edwards, Fell, Green, Harvey, Heverth, Lamberton, Lear, Littleton, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Mott, Parsons, Porter, Pughe, Runk, Russell, Sharpe, Simpson, Temple, Van Reed, Wetherill, J. M., Wherry, White, J. W. F. and Worrell—48.

Mr. LILLY. I now move that the Convention go into committee of the whole for the purpose of striking out the whole article, and substituting as follows:

"SECTION 1. Any partnership or corporation organized for the purpose shall have the right to construct and operate a railroad and canal between any two points in this State, to be governed in the construction and operation by general laws passed from time to time by the General Assembly.

"SECTION 2. No street passenger railroad shall be constructed within the limits of any city or borough without the consent of its lawful authorities."

Mr. AINEY. I hope that will not be adopted.

Mr. BUCKALEW. Perhaps I may say of this substitute what has just been remarked by a gentleman near me, that it is rather too small a piece of paper for so large a subject. If there were a revised article containing this provision and many others, that would reduce this present article one-half or one-third of its length, I would vote for it, because it contains really many valuable features. But I would not like to see this subject passed by in the adoption of only the two sections which the gentleman from Carbon has presented.

I desire to ask the chairman of the Committee on Railroads and Canals whether he and his colleagues on that committee are willing to submit this rail-

road article in whatever form it may be finally passed, to a separate vote of the people or not; because I cannot vote for a railroad article substantially like the one before us, with so much of objectionable matter about which there will be so great differences of opinion, unless it be upon the condition that the people of the State shall have an opportunity to pass upon it separately.

Mr. HOWARD. If the delegate desires me to answer, I say "yes." I shall vote all the time in favor of submitting this article separately.

Mr. COCHRAN. So say I.

Mr. HOWARD. I believe it is the strongest article in the Constitution.

Mr. LILLY. I do not pretend to say that this substitute which I have proposed contains all that should be comprised in an article on railroads and canals. There are other provisions that ought to be added to the substitute. I did not mean by presenting a substitute to limit all the necessary requirements which must be by this Constitution incorporated upon the subject of railroads. This I do mean to say, that the article on railroads and canals has too much legislation in it ever to fit the Constitution. Whilst there are many points in it with the principles of which I would be perfectly satisfied in the statutes of the State, I am not willing in this Convention, or in any other place, either now or at any other time, to frame these principles in such unbending shape that if they bring ruin upon the railroad interests of this Commonwealth from one end of its broad domain to the other, they cannot be reversed or repealed under five or ten years. I am opposed to any such action here, and always will be, and I think the Convention should hesitate long before they adopt any such measures.

I fear the effect of the article upon the remainder of this Constitution. If you strike at the railroad interests of Pennsylvania, you strike at one of the most vital interests contained within the State. Leave it to a vote of the people whether the railroad interests shall be stricken down or not, and, my word for it, you will see where the vote comes. While I am willing to have the railroad article submitted to the people for a separate vote, I object now and will always object to having these stringent provisions presented to them by this Convention. It will defeat our work. It may be said that the people can vote against this article and

for the remainder; but the very submission of this article in its present shape will send thousands of voters to the polls with the intention of voting "no" on everything, and their decision may carry with it all the good work that we have been laboring for years to carry out. Our amended instrument is filled with valuable matter. It contains provisions that will result in immeasurable good to the people. Do not let us peril it all by this injudicious action.

I appeal to the members of the Convention to stop and think over this matter. Do not let us be carried away by this peculiar feeling which, generated here in the early part of last winter, has been steadily growing ever since. Stop before you inflict a fatal blow at the most vital interest Pennsylvania contains. Adopt my amendment and start the reform in this direction. If that amendment is adopted it will then be open for further amendment. I would indeed be willing—I do not desire to make that motion myself—to send this entire article back to the Committee on Railroads and Canals or to a special committee, with instructions to report something that the people will accept. That they will accept this article in its present form I cannot and do not believe. Wherever I have seen the people and conversed with them on the subject, I find their opposition to it almost unanimous. There is a deep seated hostility on their part against the adoption of the provisions it contains, and the feeling is gaining ground every day. If that public sentiment is not consulted, and this article is not amended materially, it will certainly take thousands of votes against the whole Constitution.

Mr. CURTIN. Mr. President: I am not willing, as a member of the Committee on Railroads and Canals, to agree in advance that this article shall be submitted to the people separately from the other parts of the Constitution. We were sent here to make some reforms in the management of the railroads of the State, and I desire that whatever reforms we make shall be so judicious that we shall not fear to put them in the body of the instrument we submit to the people. I agree to many, indeed to most, of the general principles asserted in this article; to many of them I have most serious objection; and at times during the discussion of the article before the body I had opportunity of expressing my dissent to many sections of the article. I did that most emphati-

cally. I cannot on my conscience vote to put all of those sections in the organic law of the State, and I will not. I desire when this Constitution comes before the people of the State to be free to give it a hearty and consistent support; and so much am I gratified with the many reforms made in this Constitution that if it is put in, even with all the defects in the article, I will support it before the people.

Mr. President, the existing railroad companies of the State are not affected materially by this article. They have their rights and immunities. The legislation for them has passed; it has passed into the statutes of the State, and under the decisions of the courts their rights are vested, their bargain is made. We are making restraints and limitations on the power of the Legislature hereafter as to railroad companies that may be called into existence. We are crippling by this article such enterprises as may originate in poverty unstained, and animated by ambition, or in the desire for improvement when the means are wanted; and while we leave the existing railroads with their liberal and abundant legislation now in existence, we throw around new and infant enterprises all the restraints and limitations of this caustic article.

Sir, we are nearly as large as England in territory. I believe we have less than five thousand miles of railroad in actual operation in Pennsylvania, and many of these are the short lateral lines to the leading trunk lines. They have in Great Britain over sixteen thousand miles of railroad, and twelve thousand of them are in England itself. In the progress we make in development from the rich minerals which nature has been pleased in her beneficence to put in our hills and our vast products, our geographical position, our climate, the character of our people, we shall soon need twice the miles of railroad we have now, but the railroads now in existence have their bargain and covenant with the State, and as to those that are to come into existence we throw around them these restraints and limitations.

I do not agree with the gentleman, that some of these sections are not wholesome reforms. And then there is another serious question to the members of this Convention to which I invite attention. It is not to be denied that there is in Pennsylvania, as in the States lying west on the same geographical belt of States, a very large, serious, and to some extent

uneducated public sentiment in opposition to all railroads. Those who put their money into railroads and construct them do it for the public benefit and for their individual interest. But after they are once constructed by the solicitation of the localities into which the railroads run, people are often desirous to indicate to the railroad companies investing their capital and their enterprise and their energy, at what rate they shall run and carry passengers and tonnage. There are reciprocal rights for mutual benefits. Now, we stand between that public sentiment in Pennsylvania, which has been caused in a large measure by those who are in the management of railroads themselves, and the just and judicious adjustment of this most serious question.

I repeat, Mr. President, the railroad companies themselves have caused this public sentiment. Confined within the law and their legitimate rights and duties, we never should have had this struggle. If railroad companies had remained common carriers we should never have had this vexatious question before this enlightened body. When the railroad companies of Pennsylvania become producers as well as carriers, when they enlarge their capital and purchase the material wealth of the State, and dry up all the fountains of individual prosperity, they become monopolies; and they have excited themselves, by this monopolizing spirit, a degree of public sentiment in Pennsylvania which they must regard, if they are wise, and with which we are to deal for them and the public. And remember, you can hardly put anything so radical in your Constitution on that subject, in the present condition of the public mind, that it will not be accepted as a reform.

Now comes the earnest, solemn duty of men such as sit around me to-day. I know perfectly well it is human nature, and you cannot change it, that when men sit in parlors and dispense large patronage, when they have the subserviency and servility which always run after wealth here and in all other countries, they become independent, too often regardless of the rights and interests of others, and at times, I fear, tyrannical. And I very much regret that some of the railroad companies of Pennsylvania are guilty of this infirmity, which follows all humanity in all its ramifications, if we are to credit the half of what is said here and well known. And this sentiment

has been caused, to a large extent, by those who control railroads.

I regret that such serious charges can be truly made, for of all the enterprises of this country, of all the men engaged in business in political life, in high official station, there is not connected with any business or any enterprise, any branch of trade, of commerce or profession, which has invited to it so much ability, so much energy, so much fidelity to the trust reposed in them, as those who control the railroads of the country; and I venture to say to-day, if you will institute an examination into any of the great corporations in Philadelphia, you will find them men as high in public opinion and as honorable and as incapable of doing an injustice to themselves or the public as men in any other occupation, trade or calling in the various pursuits in which the people of those communities are engaged.

But there is a public sentiment which we stand before, and I cannot give many of the provisions of this article my assent, not for the reason given by the delegate from Carbon, but for the reason that I am here as one of the one hundred and thirty-three gentlemen assembled in this Hall to do what is right and just, not to cripple trade or commerce, not to break down a great public interest which is a great public benefit, not to yield to a sentiment which may not be educated or properly directed, but to be so conservative that we will do justice to both, and give to the people as far as we can, what is consistent with their rights, and at the same time not cripple the enterprises of the State.

Sir, I expect to vote for this amendment if it is put in the Constitution, even objectionable as it is to me, but I do not desire that so great an interest as that of the railroads of the State shall be submitted in advance except as part of the body of the instrument we submit to the people.

We are not here to deal with the railroad companies of the State, and to redress individual wrongs they may have inflicted, nor is our duty performed by any action of this body from prejudice. We are making an organic law for the future, and I conceive my duty performed when I so act as to place around corporate powers judicious limitations and restraints, and at the same time protect and sustain the great enterprises of the State, which contribute to its power and

consequence, and promote the individual happiness and prosperity of a free people.

Mr. KNIGHT. Mr. President: As a member of this Convention, I am very desirous that we should have a proper article on the railroad question. I regret very much that this article is not in such a shape that I can support it. In my judgment there are very many good things in it, but the bad overbalances the good.

I think the members of this Convention should look upon this great and important interest without any prejudice either for or against these institutions. They are institutions of our State, given life and power and existence by the Legislature of this State. We have to-day over \$600,000,000 of capital invested in our great railroad enterprises of Pennsylvania, and it is the great interest of the State to-day, traversing all through the State, into the valleys and through the mountains by great tunnels, it costing more to build railroads here than in any other State in the Union, and with more capital and powers invested than in any other State in the Union, rich in minerals, rich in agriculture, and the interest should be properly protected by the laws of the State.

I am not here to apologize for the manner in which railroads have been conducted, because I do not approve of many of the measures which have been taken and some of the ways in which the railroads have been conducted in this State. I think we should have confined ourselves more to our own soil and not spread our wings so far abroad into other territories as to call upon the heads of these institutions what seems to be visited upon them to-day.

As I say and repeat, this is a subject that should not be passed over lightly by this Convention. It is a great subject with a vast amount of money at stake, and I hope the Convention will conclude before they pass upon this article to properly refer it to a committee who will take it up and fully consider it, and report something to the Convention that we can all unite upon, and that the people will adopt, and that the railroads will be satisfied with in the future if they would not have been in the past.

Mr. CAMPBELL. Mr. President: The delegate from Carbon certainly cannot seriously hope that his ridiculous proposition will prevail. He cannot expect that this Convention will make itself the laughing stock of the people of the State

for all time to come. He cannot hope that the works we have been performing here month after month, until it has run almost into one year, shall now be overturned in a single moment, because he and a few others identified with railroad interests are not satisfied with the railroad article as it stands. We are certainly not going to reverse our action upon the article had on first and second readings, as well as the action of the Committee on Revision, and the action of the Convention yesterday in adopting it. Surely we are not going to reverse all that in one moment, and proclaim to the people who sent us here that we are unable to perform our work.

I had hoped that the Convention in adopting this article on first and second readings knew what they were about, and that when we passed it yesterday by a vote of fifty-seven to twenty-five on final reading, the gentlemen who voted for it know what they were about, and I trust now that the Convention will not seriously entertain the proposition of the delegate from Carbon to substitute his ridiculous scheme for it.

Mr. President, it is an old saying that there are none so blind as those who will not see. Monopolists of all kinds, whether they be interested in railroads, manufacturers or anything else, will never admit the necessity of reform in connection with the special privileges they possess. They will never see any good in a proposition intended to change or modify the powers with which they have been invested. This is the lesson of all history.

Take the condition of society in France on the eve of the French Revolution. The privileged classes were too blind to see any danger, too blind to see the urgent necessity of reform. Not until they were confronted by the mighty people risen up in desperation against them; not until they were being swept out of existence, were they convinced that a change in the existing condition of things was necessary. The railroad corporations of California, until the recent election there, would not see that the people demanded a restriction of the enormous powers possessed by them, until these same people rose in their might and by their votes condemned them. Now when a Legislature has been elected pledged to reform in railroad matters, the corporations begin to see that some modifications of their power must be submitted to.

Now, I hope this Convention will adhere to the measures it has already adopted; that we shall not be led away by a mere momentary fear of dangers that eloquent gentlemen like the delegate from Delaware (Mr. Broomall) may point out; that we shall not have our attention distracted by the impassioned appeals of gentlemen who are known to us all and to the public as the interested advocates of railroad corporations.

Now, I appeal to those delegates who represent—not special railroad interests on this floor—but the interests of the people of Pennsylvania, to stand by this article; to vote down first of all the proposition of the gentleman from Carbon, and then to vote for the article from the first to the last. I say to the gentleman from Carbon that instead of its losing us thousands of votes, if no other article will carry the Constitution through, this article will. There will be thousands and thousands of votes of the people cast in favor of the Constitution by reason of its having an article of this kind incorporated in it.

Mr. CORBETT. Mr. President: I do not live on the line of any great railroad of this State, or even of any small railroad. I feel a great interest, however, in this subject. My interest is in future enterprises, not in those in existence. I am willing myself to bring roads that are now in existence under reasonable restrictions, but I am satisfied that this article as it stands before the Convention will put in a straight-jacket every new enterprise, while it will affect to a very small extent existing companies and corporations.

These corporations have rights, and vested rights, that are guaranteed to them, not by the Constitution of Pennsylvania, but by the Constitution of the United States. You cannot touch those rights, you cannot abrogate them or take them away; they will remain. It is true you undertake to provide that they shall not have the benefit of any future legislature, which may, to some extent cripple them, but I apprehend those rights are such that they will not give them up for any future benefit, and the result of this article is to cripple future enterprises in the State of Pennsylvania. Now, it is just those enterprises that I am interested in, and alone in those enterprises.

Mr. President, this Convention has reconsidered what has done on previous questions. Yesterday, after the passage of this article under the previous question, it reconsidered that vote, and it has

attended the article. Now I move—and in making the motion I desire to say that I will not consent to serve on the committee, because I expect to be away—that this whole subject be referred to a committee of seven, to be appointed by the Chair, to report an article on this subject or to revise this article.

The PRESIDENT. The Chair cannot entertain the motion until the pending motion of the delegate from Carbon (Mr. Lilly) is disposed of.

Mr. LILLY. I withdraw my motion for the present.

The PRESIDENT. The delegate from Carbon withdraws his motion.

Mr. CORBETT. I now make my motion. The PRESIDENT. The delegate from Carbon moves that the article be referred to a committee of seven, to be appointed by the Chair.

Mr. HOWARD. Is that motion debatable?

Mr. AINEY. No.

Mr. HOWARD. How do you know? [Laughter.] I did not ask you; I asked the President. Do not answer until you are spoken to.

The PRESIDENT. Who seconds the motion?

Mr. CUYLER. I second it.

Mr. HUNSICKER. I desire to say a word or two on this general proposition.

The PRESIDENT. In the opinion of the Chair this motion to commit the article is not debatable.

Mr. HOWARD. I rise to a question of order. I do not understand that this is a motion to re-commit. It is a motion to appoint a new committee.

Mr. BEEBE. Whatever the motion is I should like to have it written out, according to the rules, and read to the Convention, so that we may understand what we are about to do.

The PRESIDENT. The motion is to appoint a committee of seven, to which this article is to be referred.

Mr. HOWARD. A new committee—not to re-commit.

The PRESIDENT. A new committee of seven.

Mr. S. A. PURVIANCE. I hope, Mr. President —

Mr. HUNSICKER. I thought the question was debatable.

The PRESIDENT. It is not debatable. Mr. HOWARD, Mr. BEEBE and Mr. CAMPBELL called for the yeas and nays, and they were ordered, and being taken, resulted as follows:

YEAS.

Messrs. Ainey, Andrews, Armstrongs, Barr, Bigler, Black, Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Cassidy, Clark, Corbett, Cronmiller, Curtin, Cuyler, Dallas, Darlington, Davis, Dunning, Edwards, Elliott, Ellis, Hall, Hanna, Hemphill, Hunsicker, Kaine, Knight, Lilly, Long, M'Clean, Mann, Niles, Palmer, G. W., Palmer, H. W., Patton, Purman, Purviance, John N., Read, John R., Reed, Andrew, Smith, Wm. H., Stanton, Turrell, Wetherill, Jno. Price and Walker, *President*—48.

NAYS.

Messrs. Alricks, Bally, (Perry,) Bailey, (Huntingdon,) Beebe, Biddle, Calvin, Campbell, Carter, Church, Cochran, Corson, De France, Dodd, Ewing, Finney, Fulton, Funck, Gilpin, Guthrie, Hay, Hazzard, Horton, Howard, Lawrence, MacConnell, M'Culloch, Mantor, Minor, Newlin, Patterson, D. W., Purviance, Samuel A., Reynolds, Ross, Smith, H. G., Smith, Henry W., Struthers, White, David N., White, Harry Woodward and Wright—40.

So the motion to refer was agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Baer, Baker, Bannan, Barclay, Bardsley, Bartholomew, Bullitt, Carey, Collins, Craig, Curry, Fell, Gibson, Green, Harvey, Heverin, Lamberton, Landis, Lear, Littleton, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Mott, Parsons, Patterson, T. H. B., Porter, Pughe, Rooke, Runk, Russell, Sharpe, Simpson, Stewart, Temple, Van Reed, Wetherill, J. M., Wherry, White, J. W. F. and Worrell—45.

The PRESIDENT. The Chair must certainly take some time for the formation of this committee.

Mr. S. A. PURVIANCE. I wish to submit a proposition now that the committee to be appointed under this motion shall be prepared to report on Monday morning next. That is long enough.

Mr. HOWARD. I rise to a question of privilege. I served on the Committee on Railroads, and I desire to say now that under no circumstances will I serve on any other committee on this subject, so that the Chair will understand it distinctly. My own judgment is that the power of the railroads has been evinced me wonderfully here to-day, and I am willing that what I say shall go upon the record.

The PRESIDENT. I do not know what the delegate means to insinuate. If he means that there is corruption in this body I call him to order. [Applause.]

SEVERAL DELEGATES. That is right.

Mr. MANTOR. I move you, sir, that the committee be requested to report on Wednesday morning.

SEVERAL DELEGATES. Oh, no; Monday.

Mr. CUYLER. I suggest to the delegate to say Tuesday morning, simply because there are so many members absent on Monday morning.

Mr. S. A. PURVIANCE. I make the motion that the committee to be appointed under the vote just taken shall be required to report on Tuesday morning next.

The PRESIDENT. The motion of the delegate from Allegheny (Mr. S. A. Purviance) is before the Convention.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. CAMPBELL. What business is now in order?

The PRESIDENT. There is nothing pending.

Mr. CAMPBELL. I move that this Convention adjourn *sine die*. [Laughter.]

Mr. ARMSTRONG. I move that the Convention take a recess of ten minutes, to enable the President to appoint the committee just authorized.

Mr. LILLY. I have but one remark to make. The gentleman from Philadelphia (Mr. Campbell) characterized my motion as ridiculous. I want to know how ridiculous he is now. [Laughter.]

Mr. DALLAS. I second the motion for a recess of ten minutes.

Mr. ALRICKS. I move an adjournment.

The PRESIDENT. If there is to be a recess the Chair will ask for a little more time than ten minutes.

Mr. DALLAS. I move to amend by making it twenty.

Mr. ARMSTRONG. There will be no session to-morrow, nor any opportunity of announcing the committee until Monday unless it be announced to-day.

The PRESIDENT. The Chair will state that the committee will be announced before three o'clock to-day.

Mr. AINEY. I hope this motion will not prevail. The Chair can call some one to the chair temporarily while he is engaged in the formation of this committee.

Mr. ARMSTRONG. I withdraw my motion under the statement of the Chair that the committee will be announced before the adjournment.

The PRESIDENT. Mr. Turrell will please take the chair.

SEAL OF THE STATE.

Mr. BUCKALEW. Mr. President: There are two small reports from the Committee on Revision and Adjustment, one assigning two sections to the article upon the executive department, and the other assigning a section to the article on legislation. I will ask that those reports be taken up and we can finish them without any difficulty this afternoon, and that will dispose of the Committee on Revision and Adjustment.

Mr. ALRICKS. I rise to a question of order. I had moved to adjourn, and that motion has precedence of the motion of the gentleman from Columbia.

The PRESIDING OFFICER. [Mr. Turrell in the chair.] The Chair has heard no such motion. The gentleman from Columbia was recognized by the Chair, and he moves that the Convention proceed to consider the report of the Committee on Revision and Adjustment on the article reported from the Committee on Commissions, Offices, Oaths of Office and Incompatibility of Office, in relation to the great seal of the State.

The motion was agreed to.

The CLERK read the report of the committee, which proposes to transfer the two sections of the article to the article on the executive department.

Mr. BUCKALEW. I ask that the sections be read which we propose to place in the executive article, and then I shall move that the report of the committee be adopted.

The CLERK read as follows:

SECTION 1. The present great seal of Pennsylvania shall be the seal of the State.

SECTION 2. All commissions shall be in the name and by the authority of the Commonwealth of Pennsylvania, and be sealed with the State seal, and signed by the Governor.

Mr. BUCKALEW. I move that the report of the committee assigning those sections to the executive article be adopted, changing the number of the sections, of course, to correspond with their location at the end of the article.

Mr. D. W. PATTERSON. I second the motion.

Mr. LILLY. Will it not take the unanimous consent of this Convention to put them there, because the article on the executive department has already been passed?

Mr. D. W. PATTERSON. The question is first on the adoption of the report of the committee.

The PRESIDING OFFICER. The pending question is on adopting the report of the committee recommending that these sections be added to the article on the executive department.

The motion was agreed to.

Mr. D. W. PATTERSON. I now move that the sections be transcribed for a third reading.

The motion was agreed to.

The sections were read the third time and passed.

LOCATION OF THE STATE CAPITAL.

Mr. BUCKALEW. Now I move to take up the report of the Committee on Revision and Adjustment, adding a section to the article on legislation.

The motion was agreed to.

The report was read, which proposes to transfer the following section to the article on legislation:

"No law changing the present location of the capital of the State at Harrisburg shall be valid until the same shall have been submitted to the qualified electors at a general election, and ratified and approved by them."

Mr. D. W. PATTERSON. I move that the report of the committee be adopted.

The motion was agreed to.

Mr. D. W. PATTERSON. I move that the section be transcribed for a third reading.

The motion was agreed to and the section was read the third time.

The PRESIDING OFFICER. The question now is on the final passage of the section.

Mr. CUYLER. I hope we shall hesitate on the final passage of that section as it is written. I hope the Convention will see its way clear to provide for submitting the question of the location of the Capital of the State directly to the people—not leaving it with the Legislature as a future matter, but providing that that question shall be submitted and decided by the people of the State at the same time that they pass upon these articles. With the increase of the number of members of the Legislature, the building of a new capitol will become a necessity. The proper time to determine the question

where the Capital of the State should be seems to me to be at the same time and by the same vote at which the Constitution itself is passed. For that reason I hope we shall not pass the section as it now stands.

Mr. D. W. PATTERSON. I trust the Convention will stand by their former action on this subject. It is not leaving it for the Legislature to decide, as the honorable member from Philadelphia suggests, but it is leaving it to a vote of the people, all of whom are interested in the question. I hope the section will be adopted.

Mr. J. PRICE WETHERILL. Mr. President; I think the friends of this measure had better be a little careful how they insert in the Constitution a provision of this sort for this reason: The representatives of the people have clearly the right to act in this matter and to submit to a vote of the people the question where the Capital shall be; but if we adopt this section, they will be reminded every time this Constitution is read that the Capital can be moved by a majority vote of the people and they will be disposed to try that question. For that reason I think the friends of this measure make a great mistake in putting an article of this sort in the Constitution. I see no necessity for it. It will only keep the matter constantly before the minds of the people; efforts will be made constantly in that direction; and it does seem to me that an unnecessary amount of trouble will result from it. I do hope that it will not be adopted.

Mr. BEEBE. I trust we shall not adopt this proposition. It is only one of the matters which are frequently brought in here as side issues, which are calculated to create prejudice in particular localities against our work. We have enough to do without loading the Constitution down with this outside matter. Of course there are some portions of the State of Pennsylvania that have aspirations to be the location of the State Capital, but the Capital has remained where it is for a long period of time and will not be changed without a very good reason. If the Convention acts upon this subject it will only arouse the jealousy of many localities of the State, and this will prove to be one of the things that have been introduced here which will destroy the Constitution.

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of the Capital of the State at Harrisburg, is in the city of Philadelphia. The direct purpose of this proposed article is that the Capital shall not be changed to Philadelphia without a vote of the people, whereas it may remain in Harrisburg forever without any such vote. This is a distinction against the people of the city of which they may with reason complain.

Mr. KAINE. I think the alarm of the gentleman from Venango (Mr. Beebe) is not well founded. I do not think there are many places in this State aspiring to be the location of its Capital. I am sure in the western part of the State we are satisfied with the Capital being at Harrisburg. Many attempts have been made and they will be made hereafter, unless something of this kind is put into the Constitution, to remove the Capital to Philadelphia. They have always failed heretofore, and I have no doubt will fail in the future. The object of putting this section into the Constitution is for the purpose of settling that question, at any rate until it shall be passed on by a vote of the people of the State. The people of the west do not want the Capital removed to Philadelphia, and I do not see why the people of Philadelphia should desire it.

Mr. J. M. BAILEY. At the beginning of the the sessions of the Convention, I offered a resolution upon this subject. I am in sympathy with this section, or with what I believe to be the intention of its framers; but the wording of the section I think is very objectionable. I will read it:

"No law changing the present location of the Capital of the State at Harrisburg shall be valid until the same shall have been submitted to the qualified electors at a general election and ratified and approved by them."

I think it should not only apply to the present location of the Capital, but to wherever it may be located in the future. I therefore desire to strike out the word "present," in the first; also the words "at Harrisburg" in the second line, and to add the words "of the Commonwealth," after the word "electors," so that the section will read:

"No law changing the location of the Capital of the State shall be a law until the same shall have been submitted to the qualified electors of the Commonwealth at a general election and ratified and approved by them." I have indicated this amendment, and I now move that the Convention resolve itself into com-

mittee of the whole for the purpose of making it.

The motion was agreed to, there being on a division, ayes forty-four, noes eighteen.

The Convention accordingly resolved itself into committee of the whole, Mr. Black in the chair.

The CHAIRMAN. The committee of the whole have had referred to them this section, for the purpose of making the amendment indicated by the gentleman from Huntingdon. The amendment is made, in accordance with the instructions of the Convention. The committee of the whole will rise.

The committee rose, and the President having resumed the chair, the Chairman (Mr. Black) reported that the proposed amendment had been made by the committee of the whole.

Mr. J. M. BAILEY. I now move that the article pass.

The motion was agreed to.

Mr. D. W. PATTERSON. I now move that it be transferred to the article on the Legislature.

The PRESIDENT. It will be transferred without a motion.

FUTURE AMENDMENTS.

Mr. BUCKALEW. I now move that we proceed to the third reading and consideration of article No. 18, on future amendments.

The motion was agreed to.

The PRESIDENT. The Clerk will state that the Committee on Revision and Adjustment have reported this article without amendment.

Mr. BUCKALEW. I move that it be transcribed for third reading.

The motion was agreed to, and the article was read the third time, as follows:

ARTICLE XVIII.

FUTURE AMENDMENTS.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives, and if the same shall be agreed to by a majority of the members elected to each House, such proposed amendment or amendments shall be entered on their Journals, with the yeas and nays taken thereon, and the Secretary of the Commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published; and if, in the

Legislature next afterwards chosen such proposed amendment or amendments shall be agreed to by the majority of the members elected to each House, the Secretary of the Commonwealth shall cause the same again to be published in the manner aforesaid, and such proposed amendment or amendments shall be submitted to the qualified electors of the State in such manner, and at such time, at least three months after being so agreed to by the two Houses, as the Legislature shall prescribe; and if such amendment or amendments shall be approved by a majority of those voting thereon, such amendment or amendments shall become a part of the Constitution; but no amendment or amendments shall be submitted oftener than once in five years: *Provided*, That when two or more amendments shall be submitted they shall be voted on separately.

Mr. HAY. I suggest that by unanimous consent the word "State" in the twelfth line be changed to "Commonwealth," in order to accord with the rule that has been adopted in the matter.

The PRESIDENT. The gentleman from Allegheny asks for unanimous consent to change the word "State" to "Commonwealth." Shall he have unanimous consent?

Mr. D. W. PATTERSON. No. I object.

Mr. HAY. Then I move that the Convention resolve itself into committee of the whole for the purpose of making the amendment I have indicated.

Mr. D. W. PATTERSON. In this connection the word "State" has a territorial signification and does not refer to the government at all. Therefore the Committee on Revision and Adjustment left the word remain as being the most proper in this connection.

Mr. BUCKALEW. One word of explanation. The Committee on Revision and Adjustment have used the word "Commonwealth" throughout the Constitution whenever the State is spoken of as a political community. They have retained the word "State" wherever it is spoken of territorially. In the present case the term "State" is not particularly objectionable, because it may be taken in either sense. I was in favor of retaining the word "State" in this instance, because the words "Secretary of the Commonwealth" occur immediately before it, and thus it avoids a repetition of the same word.

Mr. HAY. It may be very true that the Committee on Revision and Adjustment have had that distinction in their minds. It is a matter of very little consequence, and the only reason why I made the motion was because this Convention, not five minutes ago, inserted the phrase "electors of the Commonwealth." This distinction which the gentleman from Columbia alludes to has not been observed at all, and the whole thing is in a jangle in this respect.

The PRESIDENT. The question is upon the motion of the gentleman from Allegheny (Mr. Hay.)

The motion was rejected.

Mr. BRODHEAD. I move that the Convention go into committee of the whole for the purpose of striking out in the first line the words "any amendment or," and striking out the words "amendment or" wherever they afterward occur in the article. I do this for the reason that "amendments" include "amendment," because the greater always includes the less, and using the phrase "amendment or amendments" will only add to the length of the section. The words I have moved to strike out are mere surplusage.

The motion was rejected.

Mr. BRODHEAD. I again move to go into committee of the whole for the purpose of inserting the word "one" instead of "three" in the sixth line, and changing the word "months" into "month," so as to make the clause read;

"The Secretary of the Commonwealth shall cause the same to be published one month before the next general election."

I certainly think that one month is a long enough time in which to inform any person in this State about what we propose to do, and it only adds to the expense to provide for an advertisement for three months when one will answer the same purpose.

The motion was rejected.

The PRESIDENT. The question is upon the article.

The article was passed.

LEGISLATION.

Mr. H. W. PALMER. This morning the gentleman from Carbon (Mr. TALLEY) asked for unanimous consent to lines which were inserted in the article, which were the motion of the gentleman from Berks (Mr. Dunning), and it is certainly a blot on the fair

situation. Objection was made by the gentleman from Montgomery and the gentleman from Chester. Since then they have very courteously consented to withdraw their objection, believing that the words alluded to by the gentleman from Carbon should be stricken out. I therefore ask unanimous consent of the Convention to strike out so much of the seventeenth line of section ten of the article on legislation as relates to the county of Luzerne, so as to make the clause read as follows:

"Locating or changing county seats, erecting new counties or changing county lines."

Mr. NILES. I hope it will be done.

Mr. LILLY. It strikes out none of the printed matter.

The PRESIDENT. Shall the gentleman from Luzerne have unanimous consent to make the revision?

Unanimous consent was given, and the revision made.

THE LEGISLATURE.

Mr. AINEY. I move that the Convention now proceed to consider the article on the Legislature.

The motion was agreed to.

The PRESIDING OFFICER. [Mr. Turrell in the chair.] The Committee on Revision and Adjustment has submitted sections sixteen and seventeen of the article on the legislature. They will be read.

The CLERK read as follows:

SECTION 23. The State shall be divided into fifty senatorial districts of compact and contiguous territory, as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio. The county of Delaware may be united with adjoining wards of Philadelphia to form a district; and no city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district.

SECTION 17. The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of

the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one Representative for every full ratio, and an additional Representative when the surplus exceeds half a ratio; but each county shall have at least one Representative. Every county containing five ratios or more shall have one Representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the Representatives allotted to the county in which it is located. Every city entitled to more than four Representatives, and every county having over one hundred thousand inhabitants, shall be divided into districts of compact territory, each district to elect its proportion of Representatives according to its population, but no district shall elect more than four Representatives.

Mr. LILLY. These sections are on second reading.

The CLERK. No, sir. They are on third reading. They were recommitted when on third reading.

Mr. BUCKALEW. An amendment is necessary in the thirteenth line of the seventeenth section, after the word "compact" to insert "and contiguous." I ask unanimous consent to make this.

The PRESIDING OFFICER. [Mr. Turrell in the chair.] Is unanimous consent given to insert the words "and contiguous?" The Chair hears no objection and those words are inserted.

Mr. BIGLER. I desire the attention of the Convention for a few minutes in regard to the proposed disposition of Delaware county. I presume it resulted from necessity, as there was no other place to put Delaware under the rules laid down. What I wish to suggest is, that it seems to me it would be better to allow the Legislature to deal with that extreme case rather than to embody it in the Constitution. Population hereafter may vary and the difficulty may be removed. I simply wish to know why it is placed in the position it is?

Mr. BUCKALEW. I was directed by the Committee on Revision to explain that this particular arrangement in regard to the county of Delaware was reported by us in order that the section should work, accepting the two bases which have been determined on by the Convention—first, separate senatorial districts, and second the non-division of counties as a rule.

Accepting these two principles for the construction of a section, it followed that Delaware could not be constituted a district with Chester or with Montgomery county, each of which would have now somewhat more than a full senatorial ratio. And as regarded the city of Philadelphia, there is a peculiar clause which affects her; I mean the limitation of this city to one-sixth of the whole number of Senators to be chosen in the State. This section, which we reported, of necessity accepting the bases to which I have referred, permits certain wards of Philadelphia adjoining Delaware county to be connected with her for the purpose of obtaining four-fifths of the ratio necessary to separate senatorial representation under the general rule, the effect of which will be slightly to increase the representation of this city in the Senate, for the limitation of Philadelphia to one-sixth of the whole representation in the Senate is a limitation upon her separate representation as a city or county. She would retain under the rule which the Convention have adopted her eight Senators, and that portion of the population resident in the wards adjoining Delaware county would be counted in an additional district. I suppose that practically the result at present would be that the Twenty-fourth and Twenty-seventh wards would elect with the county of Delaware, or one of them might do it, the Twenty-seventh possibly. After the apportionment of 1881 it is barely possible that the county of Delaware may contain four-fifths of a ratio, although it is not likely; but she may at some future time, and if both the wards of West Philadelphia should now be connected with her by the next Legislature, it would probably happen, with the increase of population, that but one would be necessary in 1881. If West Philadelphia contributes hereafter, as she will now, about one-half the population of that peculiar senatorial district, practically the result would be that the county of Delaware and West Philadelphia would take the Senator turn about.

This is all that I think it proper to say now, as it is all that is raised by the question put.

Mr. BROOMALL. Mr. President: Being slightly interested in this question, I desire to be heard upon it.

It is a great satisfaction to me to be informed by the chairman of the committee that he knows or thinks that it is possible at some time within the next cen-

tury Delaware county may escape the thralldom which he proposes to put upon her in this section; but as some of us can hardly hope to live to see it, I propose for one not to suffer this section to pass in this shape without making my most earnest protest against it. I say now and here that if anybody will bring me any man over twenty-one years of age and under a hundred in Delaware county, of any party, who will vote for a Constitution containing a provision attaching Delaware county to Philadelphia for any purpose whatever, I think I should be willing to pay him something handsome for the chance of looking at so extraordinary an object. This provision will secure against the Constitution the entire vote of all parties in Delaware county. There is no mistaking that proposition.

Mr. BEEBE. Will not the gentleman be satisfied with the insertion of an additional clause that Delaware and Philadelphia shall have the Senator turn about?

Mr. BROOMALL. No, we will not allow

Mr. CORSON. I call the gentlemen to order.

Mr. BROOMALL. I hope this will not be taken out of my time.

Mr. CORSON. If the gentleman moves to amend the clause to which he objects, he will be in order.

Mr. BROOMALL. I am speaking to the section.

The PRESIDING OFFICER. The point of order should be addressed to the Chair.

Mr. CORSON. Then I make the point of order to the Chair that there is nothing before the House.

The PRESIDING OFFICER. The point of order is not well taken.

Mr. BROOMALL. The question is on the section, and to the section I am speaking.

About that matter I cannot be mistaken. I have lived more than half a century in the county of Delaware, and I think I know the people of that county as well if not a little better than almost any other living man. I knew their sentiments, and I know that they will not, if they can possibly prevent it, allow any phase of Philadelphia politics to affect their county.

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

Mr. BROOMALL. Certainly.

Mr. HUNSICKER. Why does Delaware object to being attached to Philadelphia?

Mr. BROOMALL. Why? I object to being attached to Philadelphia because I have been told here that there is no honesty in Philadelphia politics. I do not know whether it is true or not; but I propose that my constituents shall not run that risk. I do know that in Delaware county politics are honest and that the elections are honestly conducted. I do know that there is suspicion abroad that everything is not perfectly sound across the Schuylkill, within the city limits of Philadelphia.

Mr. M'MICHAEL. Are the people in Delaware county all honest?

Mr. BROOMALL. We have men in Delaware county that probably would compare in point of dishonesty with some men that could be found in Philadelphia, but in point of brains they know they cannot touch them, and hence they do not want to run the race of rascality with any Philadelphia politicians. I trust that this provision will not be put upon my constituents.

The proposition of the committee I look upon as faulty in other particulars. It proposes to let the Legislatures take the entire map of the State and cut anywhere in it, so that the territory is compact and contiguous, carve anywhere out of it senatorial districts, not cutting up wards or townships. I look upon this as opening the business of gerrymandering to the Legislature in a way probably that will be taken advantage of by bad men and in a way that will make such peculiarly shaped districts that the like of them anywhere else than in an apportionment bill would be apt to frighten a man out of his senses.

I desire to prevent gerrymandering altogether, to give the Legislature absolutely nothing to do but to count, and then you have obtained the object we all desire here. The great evil complained of in allowing this whole business in the Legislature is that political parties will cut and carve to suit themselves. Now, if we can contrive a way by which that will be avoided, we shall have answered our purpose. I hold in my hand a plan which I propose to read, and which I hope will be printed before this section is acted upon, and to which I call the earnest attention of the delegates. It proposes to give the Legislature nothing to do but to count. It proposes to make a system by which the apportionment will be such that any school boy can see whether it is within the limits of

the Constitution or not, who can add ten and ten together.

I will read the proposition, and I ask the attention of delegates to it. I propose to move to go into committee of the whole for the purpose of striking out the sixteenth section and inserting this in lieu of it:

"The Senate shall consist of not less than fifty members. Every county containing more than one-sixth of the population of the State as ascertained by the last preceding United States census shall constitute a district and shall elect eight members."

That disposes of Philadelphia.

"The population of the remainder of the State, divided by the minimum number of Senators—"

—Which now, you see, will be forty-two, but which will be changed when Chester gets large enough to be limited down to six Senators. [Laughter.]—

—"The population of the remainder of the State, divided by the minimum number of Senators, shall constitute the ratio of representation for such remainder. Every county thereof containing more than three-fifths of the ratio, shall constitute a district, except as hereinafter provided."

That provides for a number of counties:

"Counties of less population"—

That is, less than three-fifths—

—"Where contiguous and sufficient, shall be made into districts, each containing less than a ratio and two-fifths, and not less than three-fifths of a ratio."

That will cover all the counties but three or four. Now:

"The remaining counties shall be severally incorporated with adjoining districts. Every district shall be entitled to one Senator, and an additional Senator for every full ratio of its population above three-fifths of a ratio."

Now comes the point:

"Counties shall be so united in forming districts that there shall be, in every case, the smallest excess of population over that necessary for one, two or more Senators, as the case may be."

You see this leaves the Legislature nothing to do. They take up Delaware county and they ascertain whether by attaching it to Chester or Montgomery you secure this last—

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

Mr. BROOMALL. Not now. I move to go into committee of the whole for the

purpose of striking out the sixteenth section and inserting what I send to the Chair, being what I have just read, and I ask to have it printed.

The CLERK read the words proposed to be inserted in lieu of the section as follows :

"The Senate shall consist of not less than fifty members. Every county containing more than one-sixth of the population of the State as ascertained by the last preceding United States census shall constitute a district and shall elect eight members. The population of the remainder of the State, divided by the minimum number of Senators, shall constitute the ratio of representation for such remainder. Every county thereof containing more than three-fifths of the ratio shall constitute a district except as hereinafter provided. Counties of less population, where contiguous and sufficient, shall be made into districts each containing less than a ratio and two-fifths and not less than three-fifths of a ratio. The remaining counties shall be severally incorporated with adjoining districts. Every district shall be entitled to one Senator and an additional Senator for every full ratio of its population above three-fifths of a ratio. Counties shall be so united in forming districts that there shall be in every case the smallest excess of population over that necessary for one, two or more Senators, as the case may be."

Mr. BROOMALL. Now, Mr. President, I suppose I am entitled to the floor on my motion. I desire only to say that I have

worked out that proposition and will answer any question.

Mr. BOYD. Will the gentleman answer me a question?

Mr. BROOMALL. Yes, sir.

Mr. BOYD. Will not the effect of your scheme be to attach Delaware to Montgomery?

Mr. BROOMALL. Either to Montgomery or Chester, but not to Philadelphia.

Mr. BOYD. We do not want that.

Mr. EWING. Will the gentleman give way?

Mr. BROOMALL. I yield.

Mr. EWING. I should like to make a motion to postpone the further consideration of this subject until Monday, and that this amendment be printed. The hour of three o'clock has almost come.

The PRESIDING OFFICER. It is moved to postpone the subject now under consideration until Monday, and that the amendment of the gentleman from Delaware be printed.

The motion was agreed to.

SPECIAL COMMITTEE ON RAILROADS.

The PRESIDENT. The Chair announces as the committee appointed to consider the article on railroads and canals, Messrs. Corbett, Broomall, Buckalew, Turrell, Bigler, Armstrong and Brodhead.

Mr. STANTON. I move that the Convention adjourn.

The motion was agreed to, and (at two o'clock and fifty-five minutes P. M.) the Convention adjourned until Monday at half-past nine o'clock A. M.

ONE HUNDRED AND SIXTY-EIGHTH DAY.

MONDAY, October 20, 1873.

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

Prayer by Rev. J. W. Curry.

The Journal of the proceedings of Friday last was read and approved.

EDUCATION, &c.

Mr. STANTON. Mr. President: I have received a communication from the president of the Board of Public Charities, which I desire to have read and printed in the Debates.

The PRESIDENT. If there be no objection, that order will be made.

The communication is as follows:

COMMONWEALTH OF PENN'A,
BOARD OF PUBLIC CHARITIES,
OFFICE OF EXECUTIVE COMMITTEE,
737 Walnut St., Phil'a, Oct. 20, 1873.

M. HALL STANTON, Esq.:

DEAR SIR:—I beg to call your attention to what I suppose will be the effect of sections eighteen and nineteen of the article on legislation, section two of the article on education, and section five of that on revenue, taxation and finance, if finally passed by the Convention and accepted by the people.

1. That, under section nineteen (legislation) the State is not precluded from making appropriations for a purely ecclesiastical or religious purpose, as, for instance, the building of a church or paying the salary of a clergyman of any denomination; but may not aid in the education of her own outcast children in a school established and supported by such a denomination.

2. That, under section eighteen of same article, the State may not aid in the education of these outcast children, excepting by a "two-thirds" vote of all the members elected to the Legislature. That, therefore, the indigent and "neglected" children of the State will be denied a share of the State's appropriations in behalf of "universal" education; for such children cannot at all enter the "common" schools by reason of their abject condition, needing the reforming and subduing influ-

ences of active private effort and benevolence, to train them while receiving school instruction, and, oftentimes, food and clothing; that the Legislature will not regard educational aid, under such circumstances, other than a "charity," and that it will consider that such help has been denounced by the Convention.

3. That, under section five of the article on revenue, taxation and finance, municipalities being forbidden to make appropriations "to any private corporation, or any person or community whatever," none of the cities or counties of the State may tax themselves for the rescue and amendment and instruction of these abandoned children, nor aid, as in all the past, the institutions for the education of the blind, the deaf, mute and the imbecile, or "appropriate money" to the Houses of Refuge, because all these are "private corporations." (Heretofore the city of Philadelphia has borne one-half of the cost of maintaining the "House of Refuge," and the counties of the western judicial district fully two-thirds of the expenses of the Allegheny "School of Reform.")

That, therefore, these communities, as well as the State herself, must leave these orphan or more than orphan outcast children sternly "to their fate," and that the grand asylums above enumerated will be denied altogether pecuniary aid from the separate municipalities, (cities, counties, &c.,) and must struggle at every term of the Legislature for an overwhelming majority, in order to obtain means for their support. That there is not the remotest probability that the State will expend the many millions of dollars which would be required to purchase these "private" institutions or to build others, that she may "absolutely control" them, and that she cannot, if she chose, by the wisest official effort, conduct institutions for the *defective classes* as economically or successfully as is done with the co-operation of the warm humanity of personal private beneficence and philanthropy.

Believing that these "unfortunates" of the children of the State have a *right* to

State aid in their education, which, under the present action of the Convention, is practically denied to them, and that "charity" is not involved at all in its consideration, the Board of Public Charities, with great diffidence and respect, proposed to the Convention certain modifications of sections eighteen and nineteen of the article on legislation, intended to abate, in some degree, the evil effect of the several provisions above noticed, as the board understands them. The suggested changes are here set forth, beside the sections as passed in Convention, in order that the views herein expressed may be clearly understood. It is not believed that, in such a work as that herein referred to, the utilization of private benevolence and economy, in the manner suggested, for the public good, need compromise any doctrine or principle of any citizen or any party in the State, nor excite the "antagonism" of any person or community whatever. But, looking from the standpoint from which this board is bound to survey the subject, viz: in its relations to human degradation, pauperism and crime, it is believed that great danger is threatened to the State in reducing still further than at present the opportunities of education and improvement of the neglected classes of her children; and that both to these and to the other "unfortunates" referred to, a wrong will be done, and will be perpetuated, until full and practicable legislation is effected to rescue them from the fetters which even now restrain, and which may still further restrain, their moral and mental improvement.

Respectfully,

GEO. L. HARRISON,
President.

The memorial referred to is as follows:
MEMORIAL FROM THE PRESIDENT OF
THE BOARD OF PUBLIC CHARITIES TO
THE CONSTITUTIONAL CONVENTION OF
PENNSYLVANIA.

On behalf of the Board of Public Charities, the undersigned begs to present to the Constitutional Convention some considerations bearing upon the eighteenth and nineteenth sections of the proposed article on "legislation," containing certain restrictions upon legislative appropriations. These sections, it is understood, have already been passed to a third reading, but were so passed before the article on education had been definitely acted upon.

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The attention of the Convention is, in the first place, respectfully invited to the present state of its constitutional provisions in reference to popular education.

(1) The Constitution is to require in general the maintenance of a thorough and efficient system of public schools, offering the opportunity of an elementary education to all the children of the State. (2) A constitutional provision for compulsory education has been rejected by the Convention. (3) A provision for the establishment by the Legislature of special schools for neglected children has also been rejected. (4) The municipalities as well the Legislatures are to be forbidden to aid such private institutions as now exist for that purpose, (section five.) That is to say, with the exception of this last restrictive provision, the common school system of the State will be left substantially as it was before, the Legislature being required to continue without diminution its annual appropriations.

In the second place the attention of the Convention is respectfully recalled to a few of the simple facts of the case:

(1) According to the returns of the census of 1870, there are within the Commonwealth of Pennsylvania more than 222,000 persons above ten years of age unable to read or write, and probably the true number of such is not less than 300,000 or 400,000, of which from 75,000 to 100,000 are under the age of twenty-one, and of these last 20,000 or more are congregated in the single city of Philadelphia.

(2) This large army of neglected children, growing up in idleness, ignorance, vice and crime, who are not only destined to increase our taxes, to endanger our property and disturb our peace—to infest our highways and streets with mendicancy, pillage and violence—to crowd the docks of our court rooms and fill our almshouses, jails and penitentiaries, but who are soon to exercise with us, and over us, the sovereignty of the elective franchise, marching up to the polls with added thousands of new recruits every year—these are the cancerous source of what is probably the greatest peril to which our Commonwealth and free institutions are exposed.

(3) This evil the common school system, as at present organized, can never reach and remedy. It is to be understood that under the description of "neglected children" are meant to be included not only those who lose the benefit of the free public schools from the carelessness of

wilfulness of parents, but those also—and theirs is the greater number—who are deprived of those benefits in consequence of their destitution of any parental guardianship; their vagabond lives, their want of the very means of subsistence if they should go to school; their ragged and filthy condition, or their depraved and vicious habits, or their intractable characters, rendering them unfit to be received at school with the other children, or making it improper or impossible for them to be retained there. The reclaiming and educating of these children could not be secured even by any law of compulsory attendance at school merely, but means must also be provided to supply them with food and clothing and proper domestic guardianship while they may be receiving their education at school. If compulsion is needed elsewhere, charity also is needed here. Our schools may be ever so open, and free, and sufficient for all, but these children will still remain outside. This is the lesson not only of our own past experience, but wherever the system of free schools has been tried—whether in Europe or America, in Old England or in New England, in New York or any other of our sister States—it has been found necessary to supplement the system either by private benefactions or public appropriations for the care and support of this class of destitute and neglected children. It is clear that they have not yet been reached by our system of public schools, admirable and thorough as has been its management for several years past. Nor are they likely to be reached by it, for it would seem by the Superintendent's last report that the chronic evil of absenteeism from the schools has of late increased rather than diminished. Unless some modification or enlargement of the present instrumentalities is adopted, there is no reason to hope that the public schools will ever remedy the evil.

(4) But to reach and remedy this evil is precisely the chief end of the common school system. These children are precisely those whose education the State needs to care for. Most of the children of well-to-do parents, and who have good domestic care and training, will be tolerably well educated whether the State provides schools for them or not. It must not be supposed, therefore, that the public schools have very nearly accomplished their purpose, while only this residuum remains unaffected by them. Rather we

must remember that while this remains—and remains in its present enormous proportions—they have entirely failed of attaining their principal object.

Now, the Legislature *may do* either or both of these things which the Convention has refused to require or recommend.

(1) It may adopt the principle of compulsory education for the whole Commonwealth, or may authorize its local adoption. (2) It may establish either directly or indirectly, through the local authorities, special schools for neglected children. *Otherwise*, under the proposed section eighteen, if adopted, such children must be left to be cared for, if cared for at all, exclusively by private agencies, without any aid, encouragement, or cooperation whatever from the State in any case, or from the local authorities, unless such agencies should be organized outside of the influence and control of all religious bodies. So that, in this case, the State would either have to do the whole work, at the public expense, or would have no guaranty that such children would be cared for at all; for the aid of religion is not invoked, and private benevolence, unprompted and unsustained by the religious sentiment, even though receiving a questionable and precarious support from municipal bounty, can hardly be sufficient for the whole reliance.

Under such circumstances what is the wisest course to take? Shall the Legislature, by the adoption of this section eighteen, be practically required to do the whole work or nothing? Or, by a modification of this section, shall it be left untrammelled to adopt the intermediate course of encouraging the partial efforts of private benevolence by its fostering aid? This is the question.

But is the Legislature, in any event, likely to undertake the whole work? Is there not reason to fear that should the Convention finally adopt this section eighteen, as it is proposed, they will, under all the circumstances, practically give the full weight of their authority and influence in favor of leaving these neglected children absolutely to their fate, without the slightest effort to help or save them, and thus suffer this plague spot of the body politic to grow and fester, and spread its pestilential infection without restraint or remedy? It is said that the Legislature will still have the power to introduce the system of compulsory education either universally or partially,

and thus to reach and remove the evil? But by this course, by this means alone, the whole evil cannot be reached and remedied; and besides, the Convention has solemnly refused to require or recommend such a course, stamping it with its implied disapproval. Is it said that the Legislature may establish or authorize the particular municipalities to establish special schools for the care and instruction of this class of children? But the Convention has positively frowned upon such a plan. Is it said that the local civil authorities may aid the efforts of private benevolence in supporting such schools? But the Convention has sternly forbidden them to aid any such institutions as now exist for that purpose, and has not proposed the establishment of any others. Is it said that at least the State itself may afford such aid by direct appropriations? The Convention will have forbidden it unless a full vote of two-thirds can be obtained for it.

That is to say, even though a large majority of the people, through their chosen representatives, may for years and years seek to do it, they shall not so long as one-third remain opposed; in other words, the antecedent probability that it is wrong or unwise to do it, is held to be as two to one; so that to effect it shall require that sort of earnest zeal and public agitation and that overwhelming majority which might be required to change the fundamental law or revolutionize the form of government. But it is said that, at all events, the Convention will not have forbidden private benevolence to exert itself to any extent, and under the impulse of any motives whatever for the rescue and amendment of these poor neglected outcasts? This is true; but then the Convention had no power to make such a formal prohibition. And yet it may seriously be asked whether, if section eighteen be adopted with the rest, it will not appear that the whole moral influence of the action of the Convention will tend to dampen any sympathy that might be felt for this class of children, and to paralyze any efforts that might be made in their behalf in any quarter or in any form? But be this as it may, there seems, as a matter of fact, but little reason to suspect that some time to come, and until a great pressure of public opinion can be concentrated on the subject, the Legislature will be induced to adopt a thorough system of compulsory education or to establish special schools

for this class of neglected children, to be exclusively supported at the public expense. The undersigned, as is well understood, is in favor of both of these plans, and for himself knows of no sufficient reason against them. But the reasons, whatever they may be, which have weighed with the Convention against them, and have led to a decision which precludes their further discussion here will be likely, it is presumed, to weigh with a majority of the Legislature, backed up, as they may seem to be, by the authority of the Convention itself. And may it not pertinently be asked why it is that while both of these plans of doing the whole work by State authority and at the public expense—though liable to such objections that they are not likely soon to command a support of a majority of the Legislature—are nevertheless left untrammelled to the discretion of that body; yet this other plan of encouraging and supplementing private efforts by State aid, not being liable to the same objections, and being at any time likely, it may be presumed, to have a majority of the Legislature in its favor, should be absolutely forbidden or compelled to secure the support of full two-thirds of all the members of both Houses? Why not trust a majority of the people and their representatives in one of these cases as well as in the other? Why not allow them, if they will, in order to abate an enormous and crying evil, and to accomplish a great public good, to adopt a course which is felt to be less liable to popular objection as well as another which is felt to be more so?

Is it said that special restriction is required in this case, because such legislative action is liable to abuse? But all legislative power is liable to be abused or exercised unwisely, and we must take this risk or abolish government altogether. The true questions are: (1) Is the proposed action, in manner and form, a proper subject of State legislation? and (2) is it demanded for the public welfare? As to the former question, that this is a proper subject of legislation is indirectly admitted by its being allowed on a two-thirds vote; and as to the latter question, it is admitted on all sides that the rescue and education of these neglected children would be a great public benefit; many of us think it essential to the very existence and permanence of our free institutions. Shall we then commit political suicide lest the

Legislature should make a political blunder? Shall we abdicate the very power of promoting the public weal, because it may be abused? Shall the public good be neglected or even put under the ban, because the Legislature cannot always be trusted to do what is best? Shall the people not be allowed to manage their own affairs according to their own discretion, because, through their representatives, they may not always manage them wisely? Shall we once for all acknowledge the experiment of representative self-government a failure?

But perhaps this particular form of legislative action is thought to be specially liable to abuse. Is it so? Has such a disposition been shown by the Legislature of Pennsylvania or of other States to squander the public money in educating or aiding to educate destitute children, that it should need to be specially guarded against in the very Constitution? Even if religious or ecclesiastical bodies should come forward and offer to establish schools for the education of such children, adding moral and religious instruction to their other training, it is difficult to see why that *in itself* should be a bar to the bestowment of State aid towards the support of such schools; and probably if there was but one form of religious belief and profession in the State, it would not be so considered. But where there is a variety of religious creeds among us—while there are several sects and denominations in earnest rivalry and conflict with one another, and while religious partisanship remains so strong as it is—so strong as often to over-ride all other motives and considerations—it may be freely admitted that for the Legislature to make appropriations from the public funds in aid of sectarian institutions, however excellent their general objects and tendencies, would be an exercise of power especially liable to abuse. But this form of abuse being effectually guarded against in this section nineteen, as well as in section two of the article on education, is there any such special liability to abuse in making the appropriations contemplated in section eighteen as should require the special prevention of the two-thirds vote? The institutions to be aided will not be sectarian, not under the control of any religious denomination, not for private gain or emolument, not addressed to the special interests of any party, ecclesiastical or political; they will simply aim, by

private efforts and benefactions, to accomplish some of those charitable and educational purposes in which the highest interests of the State are most deeply involved, and for which the State makes no adequate provision by her general system of public schools. Shall the Legislature be permitted freely to aid such institutions?

If attention is called to the great cost of the institutions, whether schools, refuges, or homes, here contemplated, and if the danger of their demanding exorbitant drafts from the public treasury is urged in favor of a restriction of appropriations in their behalf, the answer is, those institutions will not hold the purse-strings, and those who do hold them are not likely to give more than, in their judgment, the public good requires. The question is, shall they be restrained from giving as much? For the State to impose such restraint upon itself seems little short of absurdity. Indeed, this is the last of all directions in which to limit the public expenditure. Economy here is eventual extravagance, and extravagance the surest economy. The public benefit resulting from a removal of the evil in question would abundantly repay all the cost, even though the whole were drawn from the public treasury. But it is to be especially noted that the plan here in view is one which is contrived to relieve the public treasury instead of burdening it, always presuming one thing, that the end contemplated is acknowledged to be demanded by the general good, and that the State recognizes her interest in the removal of so great an evil. The State might justly and wisely assume the whole expense, but the present suggestion is that, in case the establishment and support of the remedial institutions be thrown, in the first instance, on private benevolence, the Legislature, without being hampered by any special restrictions, should then be permitted to make, from time to time, such appropriations in encouragement and aid of such institutions as should be deemed wise and reasonable and consistent with the most rigid economy of the public funds. *And it is respectfully suggested that the same

*The total sum appropriated by the Legislature of Pennsylvania to local charities, embracing hospitals, homes, dispensaries, asylums, &c., &c., from 1732 to 1872, a period of one hundred and twenty years, amounts to \$277,000, including the sum of \$70,000, granted by the Provisional Assembly to the Pennsylvania Hospital during the latter half of the last century.

economical motives which weigh in the minds of the members of the Convention may be confidently counted upon to weigh in the Legislature with quite sufficient force to keep its appropriations for such objects, and under such circumstances, within due bounds. At all events, the State would pay but a *part* of the price for the benefit which it would receive.

If it be objected that the evil is local, and that the whole State ought not to be taxed for the relief or benefit of certain particular communities, the answer is threefold.

(1) Then surely those communities should be allowed to tax themselves for the removal of the evil, and to economize in that taxation, by availing themselves, as far as they should see fit, of all the aid they could obtain from private sources.

(2) By far the greater part of all taxation is for the *direct* benefit of others than those who pay the taxes. The very idea of a State involves the principle of mutual protection and helpfulness, in which, after the analogy of mutual insurance, the strongest parts give the weaker more than they receive. The State is built upon a community, a solidarity, but not a perfect equality of individual interests. When the different parts, instead of consenting in mutual co-operation, fall into dissensions, and jealousies of section wit' a section, marshaling east and west, or city and country, or agriculturist and manufacturer, or rich and poor, against each other, the very existence of the State is endangered, and its proper purpose and object are annulled. But if the State is not to be taxed for the removal of the evil, *because it is local*, how large a community is to be taxed for that purpose—a county, a whole city, a ward, a precinct, or each individual on his own account? The evil is not distributed over any area, however small, short of each individual's domicile; and when that is reached, it is precisely some other individual or individuals that must be taxed for its removal. Besides, the whole common school system is especially liable to the objection in question. Here the rich are taxed for the education of the poor; those who have no children for the education of the children of others; and the State taxes herself by the million to distribute her aid to the different localities and communities, giving most to those places where

the most children are found to need the appropriation.

But the evil is, after all, by no means so purely local as seems to be generally assumed. It exists and is formidable in all the counties of the State. If the evil is greater in one part of the State than in another, it cannot be confined to that portion, but will spread its effects far and wide. And if one portion of the State remedies the evil within itself, the beneficial consequences of such remedy will be shared by all the other parts of the State. This dangerous element is, of course, found mainly in the thickly settled communities, and there it must be encountered and dealt with. Eventually it is found in maturity all over the State, spreading its corrupting influences, filling our prisons and almshouses, and festering with disease in the hospitals. Under proper State inspection, surely the Legislature should be allowed to aid, say, *by a per capita allowance*, industrial and other schools, conducted by private individuals for the rescue of such children from the ruin which, in nine cases out of ten, is sure otherwise to overtake them and the State, from the blighting influences of their degraded and criminal lives. If, for example there are twenty thousand neglected children in Philadelphia, and if, in the rest of the State, there are 50,000 or 60,000 instead of the more exact proportion of 70,000 or 80,000, is this a reason for regarding the evil as in such sense local, that the State has no common interest in it? It is undoubtedly more concentrated where the population is more concentrated; and there, from its very concentration, it becomes not only more conspicuous but more fearfully dangerous. But are not the safety and prosperity of the State largely bound up in the safety and prosperity of the city? May not the corruptions of the city spread their contaminating influences in to the State? May not the accumulation of ignorant and unprincipled voters in the city control the elections and revolutionize the political character of the State? Does not the State assume to govern the city and bind it by the constitution and laws which it makes? And would the State allow the city to protect itself, for instance, from the increase of this dangerous element, by prohibiting the ingress into its limits of the families of ignorant and destitute foreigners? If the city should remedy this evil within its own boundaries, would not the State

reap a double benefit, in the first place, so far as the city is a part and a large part of the State, and secondly, by the distribution from the city into other parts of the State of great numbers of industrious, and well educated, and respectable, instead of idle and ignorant people? And will the State refuse to pay anything for the common benefit? For, it is again to be observed that, on the plan now proposed, the city, through its private benefactions, together, perhaps, with municipal appropriations, would assume the principal weight of burden, and the State would come in with only such aid and encouragement as it might see fit to bestow. Shall all such appropriations by the State be forbidden or hampered with such restrictions as may practically amount to a prohibition?

The Legislature, it may be finally said, cannot be trusted with an arbitrary control of the people's treasury; the people cannot be sure of having honest and intelligent legislators. What, then, is the remedy? Will you, by constitutional provisions, secure so far as possible the thorough education of all the people in knowledge and virtue, and guard with every possible barrier the purity of elections? Or will you leave thousands and tens of thousands of children to grow up in ignorance and vice and thus assume the elective franchise, only providing constitutional barriers against any aid being given by the State for their education; and then proceed to restrain the Legislature and strip it of its accustomed powers, and thus and so far deprive the very people of the functions of self-government. That the Legislature cannot be trusted means that the people cannot be trusted. To restrain the Legislature is to restrain the people. If the Legislature may not make laws, the people cannot make them; for the people have no other organ than their Legislature whereby to perform that function. Is it not inverting the order of things to leave the people in ignorance, and then restrain their Legislature? Would it not be better to secure the intelligence of the people and the purity of their elections, and then trust their chosen representatives? It is true that the Legislature may be once for all constitutionally restrained from meddling with matters where experience has shown that their interference is productive of more harm than good to the State. But the education of the people, the

thorough education of all the people, is admitted on all hands to be pre-eminently a matter of high public concern, and a proper subject of State legislation. It is submitted, therefore, that this is a case in which, beyond all others, the Legislature should be left free.

A draft of section eighteen, modified in accordance with the views thus imperfectly expressed, is with great diffidence herewith submitted. To require the inspection of the institutions in question, and the special recommendation of aid to them, by a board of commissioners appointed for the purpose, by the Governor, the Legislature, or the department of the interior, if such a department should be created, is thought to furnish a sufficient guaranty against improper or wasteful appropriations. It is presumed that the wisdom of the Legislature could easily frame a law by which private benevolence, municipal co-operation and State aid, might all be combined and concentrated upon the same great end, leaving the institutions in question, so far as they should require no compulsory or penal action, to the simpler or cheaper methods of private management; thus utilizing private benevolence and economy for the public good. Shall the Constitution of Pennsylvania, instead of encouraging and facilitating such a result, only throw obstacles in the way of its accomplishment?

A modified draft of section nineteen, is also appended, in which the prohibition of appropriations to sectarian institutions is made absolute, the clause for charitable educational or benevolent purposes being omitted. It is not perceived why against just those purposes there should be an expression of such special antipathy. Shall the Legislature be allowed to make appropriations to anything and for anything, provided only that it should not propose thereby to aid any charitable, educational or benevolent purposes? May the Legislature make appropriations, for example, for a purely ecclesiastical or religious purpose, for building a church, or paying the salary of a clergyman of any denomination, and yet shall it be forbidden to aid in the education of its own outcast children in a school established and supported by such a denomination? It is not supposed that such a distinction was intended. It is therefore suggested, as most consonant with the presumed purpose of the section,

that the prohibition against all such appropriations be made, once for all, absolute and universal.

It may be well to mention here—for the fact is not generally known even to legislators—that but four of what are called “State Institutions,” of a permanent character, are “absolutely” under “State control.” These are the Eastern and Western Penitentiaries, the Pennsylvania State lunatic hospital, at Harrisburg, and the hospital for the insane of the Northern district of Pennsylvania, at Danville. All the others are private charitable corporations, to which the Legislature has been in the habit of granting State aid at each session, in the same manner precisely as it has done to the former. Shall the education of the blind and the deaf and dumb be restricted by a two-thirds rule, because private beneficence originally founded these institutions and continues to share the expense of maintaining them? Is it well to curtail the opportunities of the insane poor to admission into that noble asylum at Dixmont, because it exists under the same conditions? or to prejudice the claims of delinquent children to the reforming influences of the Refuges of Allegheny and Philadelphia counties, or feeble-minded children to education and maintenance in that model training school of Delaware county.

The supposed impolicy of encouraging and aiding private zeal and benevolence, in the work of education and reform of neglected children, has long been practically disavowed by those enlightened governments of Europe, which have shown any interest in the improvement of this juvenile class as a measure of philanthropy or political concern. More especially has this been the case in Great Britain, which has given all such schools a recognized status, supports them largely, and allows, in the case of the private reformatories, the magistrates to send children for detention in them. The government accepted this policy, however, only after it had been incontestibly shown that reformatory schools could be thus established and their objects most successfully attained. It had been found there, as it is most lamentably the case in this State, that the Refuges or Reform schools, which maintain the unelastic character of State establishments, and which mingle together, as they must, the highly criminal youth with the barely offending ones, guarding them all as criminals by strict

surveillance and within high walls, take more or less the form and complexion of prisons, and that the children discharged therefrom are regarded with some such distrust as attaches to discharged convicts, and the disposal of the inmates to eligible situations is exceedingly difficult—as a rule, almost impossible. “The results of this system,” writes the Rev. Sydney Turner, Inspector of the Reformatory and Industrial schools of England, “have been very encouraging.” In many schools of either class, eighty per cent. and upwards have turned out well after their discharge; and these results are taken from the returns which the managers of each school have to make for the three years succeeding each inmate's discharge, of his character and circumstances. The results are seen still more decidedly in the diminution of the numbers of the younger classes of criminals, and the lighter character of the crimes of which our juvenile offenders are now more commonly found guilty.

“In the year 1856, when this system began to be in more active operation, the number of juvenile offenders committed for one year was 13,981; in 1858, when the system had spread and taken root, the number sank to 7,622; and in 1870, in spite of the very large increase of our population, the number of young offenders committed was but 9,998.

Submitted with great respect by your memorialist and humble servant,

GEO. L. HARRISON,

President.

PHILADELPHIA, Sept. 15, 1873.

SECTIONS 18 AND 19 MODIFIED.

SECTION 18. The Legislature may make appropriations to such normal schools as may be established by law, for the professional training of teachers for the public schools of the State; and in aid of schools or homes, which may be established under provisions of a general statute for the care and education of such vagrant or abandoned, or destitute and neglected children, as cannot be gathered into the public schools; but no appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, except upon the special recommendation of a board of commissioners appointed by law to visit and inspect such institutions.

SECTION 19. No appropriation shall ever be made to any ecclesiastical, denominational or sectarian institution, corporation or association, nor shall any ap-

propriation (except for pensions or bounties for military service) be made by way of gratuity to any person or community whatever.

LEAVES OF ABSENCE.

Mr. LILLY asked and obtained leave of absence for Mr. J. Price Wetherill for a few days from to-day.

TO-NIGHT'S SESSION.

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

Resolved, That the resolution passed Friday, October 17, 1873, fixing a session for Monday evening, the 20th inst., be and is hereby rescinded.

On the question of proceeding to the second reading and consideration of the resolution.

Messrs. BOYD and KAINÉ called for the yeas and nays, and they were taken with the following result:

Y E A S .

Messrs. Baer, Bally, (Perry,) Baker, Beebe, Biddle, Bowman, Broomall, Calvin, Cochran, Dallas, Darlington, Edwards, Ewing, Fulton, Hay, Hazzard, Hemphill, Howard, Lawrence, Lear, Lilly, Littleton, MacCornell, M'Culloch, Mantor, Minor, Mott, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Reed, Andrew, Reynolda, Russell, Simpson, Struthers, Van Reed, Wetherill, J. M., White, Harry, Woodward and Walker, *President*—41.

N A Y S .

Messrs. Achenbach, Armstrong, Barclay, Barr, Eigler, Black, Boyd, Brodhead, Brown, Carey, Corbett, Cronmiller, Curry, De France, Dodd, Elliott, Gilpin, Guthrie, Hanna, Hunsicker, Kaine, Knight, Long, M'Clean, M'Michael, Mann, Niles, Purman, Ross, Smith, Wm. H. and Wright—31.

So the resolution was ordered to a second reading, and it was read the second time.

ABSENT.—Messrs. Addicks, Ainey, Alricks, Andrews, Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Buckalew, Bullitt, Campbell, Carter, Cassidy, Church, Clark, Collins, Corson, Craig, Curtin, Cuyler, Davis, Dunning, Ellis, Fell, Flnney, Funck, Gibson, Green, Hall, Harvey, Heverin, Horton, Lamberton, Landis, MacVeagh, M'Camant, M'Murray, Metzger, M.tchell, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Pughe,

Purviance, John N., Purviance, Sam'l A., Read, John R., Rooke, Runk, Sharpe, Smith, H. G., Smith, Henry W., Stanton, Stewart, Temple, Turrell, Wetherill, Jno. Price, Wherry, White, David N., White, J. W. F. and Worrell—61.

Mr. DALLAN. I move to amend by striking out all after the word "resolved," and inserting:

"That hereafter and until final adjournment there shall be a session every evening commencing at half-past seven o'clock."

Mr. BRODHEAD. I move that the whole subject be postponed indefinitely.

The PRESIDENT. It is moved that the resolution and the amendment be postponed indefinitely.

Mr. BRODHEAD. On that I call for the yeas and nays.

Mr. KAINÉ. I second the call. Now, Mr. President, allow me to say a single word before the yeas and nays are ordered on this question.

The resolution proposed to be rescinded was offered by the gentleman from Columbia (Mr. Buckalew) on Friday last, and it was adopted for the purpose of having a session this evening at which I understood that he desired to submit some views upon a question now before the Congress of the United States. The gentleman from Columbia is not now in his seat, and I think it would be nothing but courtesy on the part of this Convention, at any rate, to allow the matter to lie over until the gentleman from Columbia is here.

I am opposed to the amendment of the gentleman from Philadelphia (Mr. Dallas.) I do not know what we have before us to consider this morning. I suppose we shall have the article on the Legislature, though I doubt very much whether anything is properly matured on that subject. We have, I think, fully enough sessions already. Members who are preparing for the final action of this Convention schedules and things of that kind, require time at their rooms to prepare them; they cannot prepare them in open session of the Convention. But I simply got up to say that I thought it was due from this Convention to the gentleman from Columbia that he should be here before they rescind the resolution passed for his benefit on Friday last.

Mr. DARLINGTON. Mr. President: Time does not admit of waiting for the gentleman from Columbia or the gentleman from Fayette either. On Friday

last, at the instance of the gentleman from Columbia, in a thin house, a resolution was passed calling for an extra session on Monday evening to discuss some matter which does not belong in any way to the discharge of our duties here. It was for the purpose of obtaining an expression of opinion from the Convention to operate upon others elsewhere, which is entirely ungermane to any subject that was or was likely to be before this Convention.

Now, sir, I do not want to be called here this evening to discuss any subject of that kind; I am not prepared to do it. Time does not allow that we should wait till Mr. Buckalew shall come here. His business is to be here, and his friends ought to be here to take care of the resolution; and if they are, and are the majority, they will vote my proposition down; if they are not, if a majority is in favor of rescinding the resolution which provides for a meeting to-night, then we shall reject the postponement, reject the amendment of the gentleman from Philadelphia, and adopt the resolution I offered.

Mr. BEEBE. I trust the resolution of Friday, in the form in which it stands, will be rescinded. The object of the mover of the amendment, I suppose, is to secure the end of the former resolution. I am perfectly willing and should be happy to hear the distinguished gentlemen who desire to speak give their views upon the question referred to, but I should like to have the resolution so amended that this Hall should be tenured to them for their use; but I should not like to have the rules of the Convention enforced as to members who were absent, but to have it so stand that there would be no call of the roll, and that the Sergeant-at-Arms would not be sent for those who do not choose to come. That is my objection to the resolution. I should like to have the question discussed; I should like to have the Hall given to the gentlemen desiring to discuss it, and let those gentlemen and all others come who wish to attend.

Mr. DALLAS. Mr. President: Upon the question of giving the Hall this evening for the purpose suggested by the resolution of the gentleman from Columbia, (Mr. Buckalew,) I have only to say that those gentlemen who favor that should vote for this amendment, because there is a possibility of carrying the amendment, and it is very clear, from the vote on the second reading of the pending res-

olution, that there is no certainty of carrying a proposition to give this evening for that purpose alone.

I have offered this amendment in good faith, to give us an additional session every evening from now until we get through, in the hope that in that way we shall get through this week. There is work for us to do. We have the report upon the Legislature before us. We shall have, I am assured, the report from the special committee on the railroad article to-morrow morning. The Committee on Schedule are hard at work. We have then to consider the question of how this Constitution shall be presented. I believe those are about the only subjects still remaining for our consideration. I believe that with a morning session, such as we now have, and an evening session, we can get through this week. Without it I do not believe that we can. That is the purpose of my amendment.

Mr. HOWARD. Mr. President: What is the pending motion?

The PRESIDENT. To postpone indefinitely the whole subject, which of course will leave the resolution for a session to-night to stand.

Mr. HOWARD. If the subject is postponed, of course the Convention then must attend here this evening to hear Mr. Buckalew's speech.

The PRESIDENT. Certainly.

Mr. HOWARD. I hope delegates will vote against postponing this matter. I will vote for a proposition to attend a mass meeting to hear Mr. Buckalew, and I should like very much to hear that question discussed; nothing would give me greater pleasure; but I cannot see how this Convention, as a Convention, has anything to do with it. I do not think it would read very well on our Journals, and I do not see why we should be called upon to pay out of the State funds for publishing Mr. Buckalew's speech or journalizing the proceedings of the Convention this evening. If that order is allowed to stand, it simply means that the machinery of this Convention is to be brought to bear for the purpose of this discussion. I hope, therefore, that this motion to postpone will be voted down.

Mr. MANTON. I hope this matter will be postponed. I am upon a committee and I believe during this week impossible for the members of committee to be present here at a session; and I do not think we

the members of this Convention who are engaged on committees in this way. I think it would be far better to postpone the matter indefinitely.

The PRESIDENT. The delegate certainly must be aware that if this matter is postponed indefinitely, we shall have a meeting to-night.

Mr. BAER. I wish to say a word on this matter. The amendment of the gentleman from Philadelphia affects all the country members very largely. It does not interfere with the session of to-night for this outside discussion. I have no objection to that discussion. Those who wish to hear it can come, and those who do not, need not come. But the amendment of the gentleman from Philadelphia provides for night sessions after to-night, for the regular business of the Convention, and that I am in favor of. There are a number of gentlemen here from the country who will be compelled to leave during the latter part of this week whether the Convention adjourns or not, and unless we undertake now to work vigorously we cannot complete the business of this Convention this week, and I believe if we do work, by having a day session and a night session, we can complete it so as to enable us to return home without the necessity of coming back again. I hope the motion to indefinitely postpone will be voted down, and that the amendment of the gentleman from Philadelphia will be sustained.

The question being taken by yeas and nays, resulted as follows:

YEAS.

Messrs. Barr, Biddle, Bigler, Boyd, Brodhead, Calvin, Carey, Corbett, De France, Dodd, Gilpin, Hanna, Kaine, Landis, Long, M'Clean, M'Michael, Mott, Newlin, Patton, Ross and Woodward—22.

NAYS.

Messrs. Achenbach, Armstrong, Baer, Baily, (Perry,) Baker, Barclay, Beebe, Black, Bowman, Broomall, Brown, Cochran, Cronmiller, Curry, Dallas, Darlington, Edwards, Elliott, Ewing, Fulton, Guthrie, Hay, Hazzard, Hemphill, Horton, Howard, Hunsicker, Knight, Lawrence, Lear, Lilly, Littleton, MacConnell, Mann, Mantor, Minor, Niles, Patterson, D. W., Patterson, T. H. B., Porter, Purman, Reed, Andrew, Reynolds, Russell, Simpson, Smith, William H., Stanton, Van Reed, Wetherill, J. M.

White, Harry, Wright and Walker, *President*—52.

So the motion to postpone was not agreed to.

ABSENT.—Messrs. Addicks, Ainey, Alricks, Andrews, Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Buckalew, Bullitt, Campbell, Carter, Cassidy, Church, Clark, Collins, Corson, Craig, Curtin, Cuyler, Davis, Dunning, Ellis, Fell, Finney, Funck, Gibson, Green, Hall, Harvey, Heverin, Lambertson, MacVeagh, M'Camant, M'Culloch, M'Murray, Metzger, Mitchell, Palmer, G. W., Palmer, H. W., Parsons, Pughe, Purviance, John N., Purviance, Samuel A., Read, John R., Rooke, Runk, Sharpe, Smith, H. G., Smith, Henry W., Stewart, Struthers, Temple, Turrell, Wetherill, John Price, Wherry, White, David N., White, J. W. F. and Worrell—50.

The PRESIDENT. The question now is on the amendment of the delegate from Philadelphia, (Mr. Dallas,) which will be read.

The CLERK. The amendment is to strike out all after the word "Resolved" and insert:

"That hereafter and until final adjournment there shall be a session every evening, commencing at half-past seven o'clock."

Mr. HARRY WHITE. Does that amendment include Saturday?

Mr. DALLAS. I will modify it by adding "except Saturday."

The PRESIDENT. The amendment will be so modified. The question is on the amendment as modified.

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

Mr. HAY. I second the call.

The question was taken by yeas and nays, with the following result:

YEAS.

Messrs. Achenbach, Baer, Baily, (Perry,) Black, Bowman, Boyd, Calvin, Campbell, Carter, Cochran, Cronmiller, Curry, Dallas, De France, Edwards, Elliott, Fulton, Guthrie, Hay, Hazzard, Horton, Hunsicker, Knight, Landis, Lawrence, Littleton, MacConnell, Mann, Niles, Patterson, T. H. B., Purman, Purviance, Samuel A., Rooke, Russell, Smith, H. G., Smith, William H., White, Harry and Wright—38.

NAYS.

Messrs. Armstrong, Baker, Barclay, Barr, Beebe, Biddle, Bigler, Brodhead,

Broomall, Carey, Corbett, Darlington, Dodd, Ewing, Gilpin, Hanna, Hemphill, Howard, Kaine, Lear, Lilly, Long, M'Clean, M'Culloch, M'Michael, Manter, Minor, Mott, Newlin, Patterson, D. W., Patton, Porter, Reed, Andrew, Reynolds, Ross, Simpson, Stanton, Van Reed, Wetherill, J. M., Woodward and Walker, *President*—41.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Ainey, Alricks, Andrews, Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Brown, Buckalew, Bullitt, Cassidy, Church, Clark, Collins, Corson, Craig, Curtin, Cuyler, Davis, Dunning, Ellis, Fell, Finney, Funck, Gibson, Green, Hall, Harvey, Heverin, Lamberton, MacVeagh, M'Camant, M'Murray, Metzger, Mitchell, Palmer, G. W., Palmer, H. W., Parsons, Pughs, Purviance, John N., Read, John R., Runk, Sharpe, Smith, Henry W., Stewart, Struthers, Temple, Turrell, Wetherill, John Price, Wherry, White, David N., White, J. W.F. and Worrell—54.

The PRESIDENT. The question recurs on the resolution, which will be read.

The CLERK read as follows:

Resolved, That the resolution passed Friday, October 17, 1873, fixing a session after Monday evening, the 20th inst., be and is hereby rescinded.

Mr. PURMAN. Mr. President: I trust the Convention will not rescind the resolution adopted on Friday last. The Convention by its vote has now determined that it will not have sessions at night for the ordinary and regular business of this body. Therefore the session heretofore ordered for this evening will not interfere with any of the regular and ordinary business of the Convention. Not only that, sir, but in a full House on mature reflection the Convention determined to have this meeting this evening out of respect to the distinguished gentleman from Columbia, and out of regard for the subject proposed to be examined. Will the body now, hastily, and in the absence of the distinguished gentleman from Columbia rescind that resolution? I hope it will not be done. I submit that it would be a thing unparalleled in the history of deliberative bodies when the body understood it as it did on this occasion that the session was fixed for a specific purpose in which a distinguished member of our Convention felt peculiarly interested, that it should afterwards in the ab-

scence of that member take up the subject and rescind the resolution. I submit to the good sense of the distinguished gentleman from Chester if upon reflection he will not withdraw his resolution. ["No" "No."] It is singular that I should hear "no" from any man in this Convention on a question so plain as this, a question involving the courtesy and the good-manner of the members of the Convention towards each other. In all deliberative bodies, there is a certain degree of respect due to each member, and I trust the Convention will treat the distinguished member from Columbia with that consideration which his character and ability deserve. The question proposed to be examined this evening is one of vital importance to the country, and well worthy of our consideration, and should not receive at our hands such a negative condemnation as it would by rescinding the resolution. I trust, Mr. President, that this resolution will not pass, but that the Convention will stand by its former action.

Mr. HAY. Mr. President, I shall vote for the resolution of the delegate from Chester, believing that I voted mistakenly in voting as I did on Friday last, for the resolution providing that the Convention shall hold a session this evening for the purpose of hearing the remarks and considering the resolution of the delegate from Columbia. At the same time I desire to say that I shall vote, and vote gladly to give the use of the Hall, when not occupied for the sessions of this body, for the purpose of hearing the delivery of any address from him upon that or any other subject on which he may desire to be heard by the members of the Convention; but I believe that this Convention has nothing whatever to do with the subject that he now proposes to discuss and to ask its action upon, and can, therefore, see no propriety in our being called upon to pass any opinion upon it. I shall, therefore, vote for the resolution.

Mr. D. W. PATTERSON. I merely wish to state that if there is any question of courtesy here there is a question of duty also, and I think duty ought to come before courtesy. If the proposed meeting of the Convention be held to-night, of course any speeches made at it will be put in our Debates, thus greatly increasing the expenses of the Convention, and those speeches are to be on a subject which the people did not elect us to consider and in which we have no say one

way or the other. This, therefore, will be an unnecessary expense and a taking up of the time of the Convention about a question in regard to which we have no right to act.

I say, then, here is a question of duty, for us to keep down the expenses of this Convention. The holding of the meeting to-night under the original resolution passed on Friday will greatly add to our expenses, and I am in favor of repealing it as a question of duty.

Mr. HAY. In order to make my meaning more explicit, I desire to say that if this resolution be agreed to, it is my purpose then to make a motion that the use of the Hall be tendered to the delegate from Columbia.

Mr. KANE. Mr. President: The gentleman from Chester in his remarks in reply to those which I made a few moments ago said he was not willing to grant any indulgence such as I proposed, either to the gentleman from Columbia or the gentleman from Fayette. Sir, I do not ask any indulgence from the gentleman from Chester; but I must say here that I think no member on this floor has received more indulgence from this Convention than that distinguished gentlemen.

He has spoken on the impropriety of bringing a measure of this kind before the Convention for consideration for the purpose intended. I think it has just as much to do with our business as that subject which he discussed for two or three weeks, during our sessions, in regard to woman suffrage. I think it is just as important that this Convention should express an opinion on the subject of how the electors of President and Vice President shall be elected, as upon any other subject a clause in regard to which is not to go into the Constitution of the State. I understand it is the intention of the resolution of the gentleman from Columbia that this Convention should express its opinion upon the propriety of Congress submitting an amendment to the Constitution of the United States in regard to the manner of choosing electors for President and Vice President. Now, they have no control whatever over it. It is entirely within the control of the respective States, and one State chooses electors in one way and another in another. The purpose, I understand, is to induce Congress to suggest an amendment to the Constitution of the United States which shall make the regulations for the choice of electors uniform throughout the

United States. I think it is as proper a subject as could come before this Convention for consideration other than the mere insertion of the articles we propose to put in the Constitution of Pennsylvania.

Mr. MANN. I agree with the gentleman from Fayette, that this question is as proper a subject for consideration by the Convention as a great many other questions that have been discussed, and I believe the people of this Commonwealth are far more interested in it. It is a question of reform. It is a question of reforming the Constitution of the United States; and so far as I know there is a strong feeling throughout this State in favor of the proposed change which the committee of the Senate of the United States are now discussing. Although I voted against the calling of a meeting this evening, and although I still think it would have been better if we had not done so, I now believe it would be unfortunate to rescind the resolution for the reason that it would create an impression abroad that the representatives of the people who compose this body are opposed to any change in this respect. It will therefore discourage the committee of the United States Senate, appointed to take this subject into consideration, and I should very much regret that by any action of ours we should discourage the distinguished gentlemen who have this great reform in charge.

This is a question of great magnitude. It is not one that can be brushed aside as of no importance. It is one that the people of the United States are discussing constantly, and they generally feel that it is a great burden imposed upon the people to elect the President of the United States in the present way, and, so far as I understand their sentiments, they earnestly desire this change proposed. Then having called this meeting to consider this subject let us hold it, and let gentlemen who have views on this subject express them. What possible harm could be done by it?

The expense that has been referred to should not influence the decision of this question. The expense will be a mere nothing. It is proposed to call an evening session and listen to three or four speeches of ten minutes, each and yet the discussion which would be had in this Hall to-night may suggest such thoughts to the people of this State as to make them demand some reform before it is too late.

I think the gentleman from Columbia stated very clearly the other day the great danger that is before the people of the United States, if some change in this respect is not brought about. Every intelligent man knows that if the result of the last presidential election had depended upon the vote of the State of Georgia, there would have been another revolution. Every man of intelligence knows it, and knows that we were saved from revolution simply because the vote of the State of Georgia was of no importance in that contest.

Is it not wise then to prepare in advance to avert any such calamity? Under our present machinery of electing a President there is no way of remedying a false return of presidential electors. The people will not submit to have a President put into his seat by false returns. The Senate of the United States have taken steps to reform this defect in our election machinery. Why should not the delegates in the Pennsylvania Constitutional Convention encourage the committee with a resolution of endorsement? Why should they rescind their action and thus discourage the committee? I do not believe that any proposed reform should meet with discouragement thrown upon it from this Convention, and, therefore, I shall vote against the resolution of the gentleman from Chester.

COMMITTEE ON RAILROAD ARTICLE.

Mr. CORBETT. I rise to what I consider a privileged question. I desire to ask leave of the Convention that the committee to whom was referred the railroad article shall sit during the sessions of this Convention. I make that request now because this present question may require some time for its disposition.

The PRESIDENT. The gentleman from Clarion asks leave to make a motion. Shall he have leave?

Leave was granted.

Mr. CORBETT. Then I ask leave for the special committee on the railroad article to sit during the sessions of the Convention.

Leave was granted.

TO-NIGHT'S SESSION.

The PRESIDENT. The resolution of the gentleman from Chester (Mr. Darlington) is before the Convention.

Mr. DE FRANCE. I have not said anything on this question, and I believe that I have as much right as any member

here to take up a little of the time of this Convention. There has been some talk upon this floor this morning to the effect that we were not sent here for the purpose of expressing an opinion about the Constitution of the United States. The Constitution of the United States, Mr. President, is, to a certain extent, the Constitution of every State in the Union. What kind of a Convention is this? It is a sovereign Convention of the people of the State of Pennsylvania, and have we no right to express our opinions about a change in the Constitution of the United States?

It is a very queer thing, indeed, if the sovereign Convention of the people of the State of Pennsylvania has not a right to express an opinion about a change in the Constitution of the United States as well as in the Constitution of the State. It is true that we were not sent here particularly for that purpose, but we are certainly a sovereign Convention, and have the right to express our opinion upon the subject.

I agree most fully with my friend from Potter (Mr. Mann.) It seems to me that if there is any danger to be apprehended in the future in reference to the choice of presidential and vice presidential electors, it is our duty as the sovereign Convention of this State, to express our opinion upon that subject.

Mr. BAER. I shall vote in favor of rescinding the resolution that was adopted last Friday. I want it to be distinctly understood that I do not intend to show any want of courtesy to the gentleman from Columbia, who offered the resolution. On the contrary, I desire to say that the friends of the gentleman from Columbia are the cause of the want of courtesy, if there is to be any shown to that gentleman, by their action in voting against a proposition for night sessions of this Convention. After they, by their votes, defeated the amendment providing for sessions of this Convention nightly, they have no right to come into this body now and say that it implies a want of courtesy upon the part of gentlemen here to vote for a rescinding of the resolution passed last Friday.

I shall vote for rescinding it on principle, not raising the question of whether the original resolution was right or wrong. A man may have a right to kick his grandmother, but the question of propriety is a very different thing. [Laughter.] So here this question of whether it is right to amend the Constitution of the

United States is no concern of ours, for the people of Pennsylvania have not sent us here for any such purposes. We are here for the legitimate purpose of reforming the Constitution of Pennsylvania, and anything that is outside of and beyond that is going beyond our province, and I, for one, will not tolerate it by any vote of mine, whether that vote is simply to sanction an outside proceeding, or to bring it directly into this Convention. If the question comes up on giving the use of the Hall to any gentleman who may want to speak every night in the week, so as not to make his speech a part of the proceedings of this Convention, he shall have this Hall by my vote. I am not, however, to be tied up and complicated by the discussion of this night. For one, I wish my hands freed from the whole thing, and I say that I will not be bound by it, whatever decision the Convention may come to on this resolution. I stand here for a different purpose entirely, and I will not be bound by the proposed action of this Convention, whether that action be right or wrong.

Mr. KNIGHT. We have made a contract in granting this Hall for this evening. I believe in living up to contracts, and therefore shall vote against the resolution.

Mr. BOYD. When I voted, on Friday last, to hold a session of this House in order to hear discussion upon this particular subject, I did not commit myself on the subject either one way or the other. I believed that we were here to get information, and I certainly know of no deliberative body that is more in need of it than this one. [Laughter.] I voted to grant the use of the Hall this evening for a night session on that ground. I shall vote, now, against the resolution of the gentleman from Chester on the same ground. Gentlemen seem to consider this question as though we knew what was to be considered and discussed. I am in favor, first, of hearing discussion, before deciding whether or not action should be taken on the proposition. How gentlemen can anticipate what is to be said here, what arguments are to be used, or what reasons given by the delegate from Columbia, or by other gentlemen, passes my comprehension. When we hear those reasons given, if we then think that we have nothing to do with the subject-matter, we can vote it out. If we think, on the contrary, that it is our duty to approve of the proposed change

in the Constitution of the United States, we can say so; but I, for one, am not prepared to commit myself either way on that subject until I have discovered what may be said upon the question.

Gentlemen say that we have not been sent here for any such purpose. I have not yet discovered for what purpose we have been sent here. [Laughter.] Some gentleman tells us that we have been sent here for the purpose of reforming the judiciary of the Commonwealth, and for no other purpose whatever. Other gentlemen tell us that we have been sent here for the purpose of going for the railroads, and for no other purpose whatever. Every member has his own particular notion as to what we have been sent here for. I am very sure that my own mind is clear upon the subject of our particular duties here; but while that is so, the mind of my friend and neighbor from Chester (Mr. Darlington) is very much clouded on that subject. [Laughter.]

Let us have an examination into this subject. Let us see if it is wise or unwise for us to take any action relating thereto. Let us see what it is that the gentleman from Columbia and other gentlemen desire us to do, and then if the people of this State think that this is a wise body and has come to a wise conclusion, our conclusion will have some weight. If, however, we consider that it is really unwise to act upon the subject, after a consideration of it, it will fall harmless. What is the harm of our meeting here this evening? Allow me to suggest that it might be a very great advantage to very many members of this body to spend one evening here rather than somewhere else in this city. For that reason I am in favor of allowing the resolution of this Convention, adopted on Friday last, to stand as it is, and I therefore shall vote against the motion of the gentleman from Chester.

Mr. HOWARD. When this question was first proposed to the Convention I objected to it because it was entirely out of order. It could not in any possible way come before the Convention, for this reason, that by no sort of device could we engraft anything into our Constitution upon that subject. The question of choosing the electors who are to choose the President and Vice President of the United States, is regulated entirely by the Constitution of the United States, and any mode of selecting these officers must necessarily be controlled by the Consti-

tion. It must be amended or altered by some change in that instrument, and we might write what we pleased, if we were foolish enough to write anything, into the Constitution of the State of Pennsylvania upon that subject, and it would not touch the question at all. Delegates have talked about issuing a bull against the comet. This would be the case exactly. We have nothing to do with the subject at all. It involves no question of courtesy whatever, and even if it did involve a question of courtesy, I have seen delegates upon this floor vote for propositions that I considered a gross discourtesy upon other members of this Convention. I saw that done no longer ago than last Friday, and the delegate from Columbia was one of the delegates who did it.

I thought so, and I know a great many others thought that it was a gross discourtesy upon other delegates just as respectable as the delegate from Columbia. I say this resolution involves no question of courtesy, because this Convention has nothing to do with it at all, and if the delegate from Columbia or any other delegate wishes to air himself on this subject before the people of the Commonwealth, or of this nation, they have no right to use this Convention for that purpose. They have no right to put their motions upon the Journal, and they have no right to ask the Commonwealth of Pennsylvania to pay for the printing of their speeches. We will give them the use of the Hall cheerfully, and I will promise to come and hear them. That is all we have a right to do. We have no right to compel the attendance of this body, because then we could order the roll to be called and send the Sergeant-at-Arms after absent members. You have the right to move that the subject proposed in advance to be discussed shall be set aside, and you have a right to take up the railroad article if a special committee that have it in charge shall be able by that time to give it a new birth; or you will be able to take up any other subject and consider it.

It is perfectly clear that having nothing to do with the subject, the only result of the discussion that can arise will be to put ourselves into a ridiculous position. I objected to it at the time as being out of order. I believed it was out of order then and I think it is out of order now. We ought to do no more than to give these gentlemen who desire to speak upon this question the use of the Hall,

but we ought not to compel the Convention to attend upon that occasion.

The PRESIDENT. The question is on the resolution.

Mr. DARLINGTON. The yeas and nays were called for.

The PRESIDENT. Who seconded the call?

Mr. DARLINGTON. Mr. Boyd seconded the call some time ago.

The yeas and nays were taken with the following result:

Y E A S .

Messrs. Achenbach, Andrews, Baer, Baily, (Perry,) Baker, Beebe, Biddle, Calvin, Campbell, Cochran, Darlington, Ewing, Edwards, Fulton, Hanna, Hay, Hazzard, Hemphill, Horton, Howard, Lawrence, Lear, Lilly, MacConnell, Mantor, Minor, Patterson, D. W., Patterson, T. H. B., Porter, Reed, Andrew, Reynolds, Russell, Simpson, Stanton, Temple, Van Reed, Wetherill, John Price, White, Harry, Woodward and Walker, *President*—40.

N A Y S .

Messrs. Barr, Black, Boyd, Brown, Buckalew, Bullitt, Carey, Cassidy, Cronmiller, Curry, Dallas, De France, Dodd, Elliott, Gilpin, Guthrie, Hunsicker, Kaine, Knight, Landis, Long, M'Clean, M'Culloch, M'Michael, Mann, Mott, Newlin, Niles, Patton, Purman, Rooke, Ross, Smith, H. G., Smith, Henry W., Smith, Wm. H., Wetherill, J. M., Worrell and Wright—38.

So the the resolution was passed.

ABSENT.—Messrs. Addicks, Ainey, Alicks, Armstrong, Bailey, (Huntingdon,) Bannan, Barclay, Bardsley, Bartholomew Bigler, Bowman, Brodhead, Broomall, Carter, Church, Clark, Collins, Corbett, Corson, Craig, Curtin, Cuyler, Davis, Dunning, Ellis, Fell, Finney, Funck, Gibson, Green, Hall, Harvey, Heverin, Lambertson, Littleton, MacVeagh M'Camant, M'Murray, Metzger, Mitchell, Palmer, G. W., Palmer, H. W., Parsons, Pughe, Purviance, John N., Purviance, Samuel A., Read, John R., Runk, Sharpe, Stewart, Struthers, Turrell, Wherry, White, David N. and White, J. W. F.—55.

EVENING SESSIONS.

Mr. EWING. I offer the following resolution, and unless others wish to dispose of it now, I ask that it lie over until tomorrow morning:

Resolved, That on and after Wednesday, the 22d inst., the Convention will

hold evening sessions, commencing at seven o'clock and closing at nine o'clock.

I ask that it lie on the table, to be called up to-morrow morning :

The PRESIDENT. The resolution will lie on the table.

USE OF THE HALL.

Mr. HAY. In accordance with the notice I gave before voting upon this last resolution, I now move that the use of the Hall be given this evening for the purpose of holding a discussion on the subject indicated by the delegate from Columbia on Friday.

The PRESIDENT. The question is on the motion of the delegate from Allegheny.

Mr. BUCKALEW. Mr. President: The delegate from Columbia does not desire any privilege of the sort. I hope the gentleman will withdraw his motion.

Mr. HAY. Certainly; I withdraw the motion.

The PRESIDENT. The motion is withdrawn.

Mr. BUCKALEW. I am frank to say that I proposed the former resolution with the intention of discussing the resolution that I introduced on Friday, and which was laid on the table. If the Convention does not propose to act on that resolution, I do not care about having the use of the Hall to make an address on the subject.

COMMITTEE ON ADDRESS.

Mr. HARRY WHITE. I offer the following resolution :

Resolved, That a committee of one delegate from each senatorial district be appointed to present the result of the labors of the Convention to the people of the State, by issuing an address to accompany the new Constitution, and the use of such other means as may be necessary to secure a proper consideration of the same by the voters of the Commonwealth; and that such committee make report to the Convention as soon as possible.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, and the ayes were twenty-two, not a majority of a quorum. So the question was determined in the negative.

THE LEGISLATURE.

The PRESIDENT. The next business in order is the report on the article on the Legislatures. The question recurs on the amendment offered by the delegate from

Delaware (Mr. Broomall) as a substitute for the sixteenth section. The amendment will be read.

The CLERK read as follows :

"The Senate shall consist of not less than fifty members. Every county containing more than one-sixth of the population of the State as ascertained by the last preceding United States census, shall constitute a district and shall elect eight members. The population of the remainder of the State, divided by the remainder of the minimum number of Senators, shall constitute the ratio of representation for such remainder. Every county thereof containing more than three-fifths of the ratio shall constitute a district, except as hereinafter provided. Counties of less population, where contiguous and sufficient, shall be made into districts, each containing less than a ratio and two-fifths, and not less than three-fifths of a ratio. The remaining counties shall be severally incorporated with adjoining districts. Every district shall be entitled to one Senator and an additional Senator for every full ratio of its population above three-fifths of a ratio. Counties shall be so united in forming districts that there shall be in every case the smallest excess of population over that necessary for one, two or more Senators, as the case may be.

Mr. BROOMALL. Mr. President: It will be observed that I do not provide for single districts. If it is necessary to do that, that can be done without materially altering the phraseology. I provide as far as possible against all cutting of counties. The section to which I have offered this as an amendment allows the most unlimited cutting and carving, except that it will not allow a ward, borough or township to be divided. Other than that, it leaves the Legislature entirely at liberty to cut and carve where it pleases. It does not prohibit counties from being divided, and hence as we do not prohibit the Legislature from doing it they can divide counties. If the Convention prefers single districts that will increase very materially the opportunity for gerrymandering and for making unfair and unjust apportionments of Senators. I think it would be better for us to forego that than to open the whole matter to the Legislature in the way it has been heretofore.

I will now read my section, and the Convention will see, first, that it limits the minimum number of Senators to fifty. We cannot do more than that very

well. That it prevents the cutting and carving of counties; that it disposes of the whole State in a way that leaves the Legislature very little more to do than merely counting. I will read it:

"The Senate shall consist of not less than fifty members. Every county containing more than one-sixth of the population of the State as ascertained by the last preceding United States census, shall constitute a district, and shall elect eight members."

That disposes of Philadelphia. If it is desirable to let Philadelphia vote in single districts or to let it be divided, a few words added will make the alteration:

"The population of the remainder of the State, divided by the remainder of the minimum number of Senators, shall constitute the ratio of representation for such remainder."

The section to which I have offered this as an amendment does not tell us how the ratio of representation is to be ascertained. The only fair way of ascertaining it is that which I have given: Take out Philadelphia from the State and take out her eight representatives from the number fifty, and divide the one by the other; and it gives you the only fair ratio of representation. Why the ratio of representation is not defined I do not know. In the next article for legislative purposes the ratio of representation is defined.

Again: "Every county thereof"—that is, every county of this remainder—"containing more than three-fifths of the ratio shall constitute a district, except as hereinafter provided."

I have carefully gone over the matter and have found that this provides, without the power of the Legislature to change it in any way, for more than three-fourths of the entire State. I sent to the Printer a calculation showing the result of this plan, but owing to some disappointment in the printing it has not been printed. If I had that here I might answer any question that might be asked.

"Counties of less population, whose contiguous and sufficient, shall be made into districts, each containing not less than a ratio and two-fifths, and not less than three-fifths of a ratio."

That provides for a small number of counties of the unprovided part, making them into single districts, and as the paper I hold in my hand will show, this can be conveniently done, and can only be done in one way. It does not give the

Legislature its choice to put this or that county where it pleases in order to produce political results.

Mr. HUNSICKER. Allow me to ask the gentleman where this would attach Delaware.

Mr. BROOMALL. That provision does not affect Delaware. Delaware comes in after a little while.

"The remaining counties shall be severally incorporated with adjoining districts."

The remaining counties are two or three, of which Delaware county is one, and this attaches Delaware county either to Montgomery or Chester, according as the calculation makes one or the other the proper one to answer the purpose of the last sentence. The next sentence is:

"Every district shall be entitled to one Senator, and an additional Senator for every full ratio of its population above three-fifths of a ratio."

Now, comes the part that will govern where Delaware county is to go:

"Counties shall be so united in forming districts, that there shall be in every case the smallest excess of population over that necessary for one, two or more Senators, as the case may be."

Now, it is matter of calculation, and not the choice of legislators, whether Delaware under that goes to Chester or Montgomery, but it must go to one or the other, and I do not care to which it goes, because those counties are very decent counties, and are represented on this floor by very decent men. [Laughter.]

To show to what extent the counties are provided for by this provision without any cutting and carving at all, I will read from the paper I have in my hand: Adams and Cumberland are united and cannot be disposed of in any other way, and are entitled to one Senator; Allegheny is entitled to four. Greene and Fayette can go nowhere else but together, and are entitled to one; Washington gets one; Westmoreland one; Beaver and Lawrence can only be united and get one; Mercer gets one; Crawford one; Erie one; Butler and Armstrong get one; Venango and Forest get one; Clarion and Jefferson one; Bedford and Somerset one; Indiana and Cambria one; Blair and Huntingdon one; Franklin and Fulton one; Centre and Clearfield one. Then comes a group of small counties that can be conveniently joined together. Warren, M'Kean, Potter, Elk and Cameron, making nearly a ratio, but not

quite; they get one. Mifflin, Juniata and Perry get one; York one; Dauphin one; Lancaster two; Berks and Lebanon two; Chester one; Delaware and Montgomery two, if my calculation is right; Philadelphia eight; Clinton, Union and Snyder one; Lycoming and Tioga one; Bradford and Sullivan one; Columbia and Montour one; Northumberland one; Schuylkill two; Susquehanna and Wyoming one; Luzerne two; Carbon and Monroe one; Bucks one; Lehigh one; Northampton one; Pike and Wayne one.

Now, I will here say, that by making the number of Senators sixty instead of fifty, you provide for more than half the—

Mr. BEEBE. How many Senators in all do you make?

Mr. BROOMALL. This makes fifty-four. By making the number sixty instead of fifty, you give Delaware a Senator, and you remove some objections to the association of counties, that is, you will provide for a considerably larger number of these counties, and leave the possibility of cutting and carving by the Legislature greatly less than this does; but by looking at that, you will see that the cutting and carving must be very limited indeed.

I see no reason myself why three-fifths of a ratio should not be entitled to a Senator, if a ratio and three-fifths entitle a county to two Senators.

Mr. S. A. PURVIANCE. I ask the gentleman from Delaware what fairness there is in that adjustment which gives to Delaware, with but thirty-eight thousand population, one Senator, and gives to Armstrong and Butler, with eighty thousand, but one Senator?

Mr. BROOMALL. We do not do that; but we give Montgomery and Delaware, with nearly two full ratios, two Senators. If the number was increased so as to give Delaware a Senator, then those two counties would each get one.

Mr. EWING. I suggest to the gentleman to ask the unanimous consent of the Convention, which no doubt will be given, to allow Delaware to have one Senator.

Mr. BROOMALL. No; I do not want that. I want a system that shall not be subjected to manipulation by the Legislature. It is better to have one we do not like than one that can be cut and carved by the Legislature.

Mr. MACCONNELL. I should like to ask the gentleman a question. The first

sentence of the amendment fixes the minimum, but not the maximum of the Senators. The second sentence limits the number of Senators from Philadelphia to eight, no matter what the number of Senators may be. If the number is fifty, Philadelphia elects eight *in solidum*; if it is one hundred, it will have but the same number. Can the gentleman explain and justify that provision?

Mr. BROOMALL. The gentleman will see that the minimum being fixed at fifty and the ratio of representation ascertained as it is, and the apportionment being so that not less than three-fifths under any circumstances can have a Senator, and so that anything less than a ratio and three-fifths get one, the maximum can be but three or four Senators over the minimum. There is not much lee-way there, as the gentleman will see if he will calculate it.

Mr. CAMPBELL. Does not the gentleman intend by his proposition to limit the representation of Philadelphia in all cases to eight members?

Mr. BROOMALL. If I could see it possible for that representation to be less at any time than one-sixth, I would make a change in that respect; but by no possibility can the maximum number of Senators exceed fifty-six. The calculation I have made shows that the present condition of things is an extreme one. Allowing the maximum as large as possible, and it not being up to fifty-six, Philadelphia would not be entitled to more than eight. I was in favor of allowing Philadelphia her full share of Senators, as the gentleman may remember, and I would be the last one to cut it down. If I thought this proposition did, I would myself make the change.

Mr. HUNSICKER. Mr. President: This senatorial scheme offered by the gentleman from Delaware may be very satisfactory to him, and very pleasing to his constituents; but the people of Montgomery county have just been released from an enforced union with Chester and Delaware counties.

For the last ten years they have felt the galling bitterness of that yoke. The proposition that the gentleman from Delaware now offers is simply to unite Delaware and Montgomery together into a senatorial district, with two Senators. He does not propose to annex Chester and Delaware, which are alike in all respects, but he proposes to swallow up Montgomery altogether, and to make us pay tribute to Delaware county forever. Mont-

gomery county, with a population of eighty-one thousand six hundred and twelve, is to be hitched to Delaware with a little over thirty-nine thousand, and thus get two Senators, and the representation is supposed to be fair.

Let us see how this thing works. By virtue of a legislative gerrymander Montgomery was annexed to Chester and Delaware and formed a senatorial district, and during all that time Delaware and Chester, through their conferee system, left poor Montgomery out in the cold during the whole of that time, with the exception of two Senators in the ten years. We have now escaped that legislative apportionment. Montgomery county has just been made a senatorial district. We have escaped the legislative Scylla, and now we are in danger of being engulfed in a constitutional Charybdis, and we are to be written down within the fast lines of the Constitution forever as a tail to the Delaware kite. Is it just, is it right that Montgomery county, having interests different altogether from those of Delaware, Montgomery being a manufacturing and mining as well as an agricultural county, shall be attached to little Delaware, and little Delaware always take the two Senators?

The scheme is very adroitly couched. The gentleman does not say directly that Delaware shall be annexed to Montgomery, but he says in his calculations, if the calculations are right, that will be so. That gentleman does not make any mistakes in his calculations. He has figured this whole thing out and understands its effect exactly.

Why should not Montgomery county have a Senator by herself, when Bucks gets a Senator by this scheme and numbers of other counties, with far less population than we have. We have over twelve thousand population more than enough to entitle us to a Senator, and yet we are to be cut out by this scheme altogether from any participation in the upper branch of the General Assembly.

Why does the gentleman object to being attached to Philadelphia? He said, in answer to the gentleman from Philadelphia, (Mr. Campbell,) that he was in favor of giving Philadelphia a representation based upon population, and yet the moment the proposition comes in here from this committee to absorb a little of the surplus population of Philadelphia and attach it to Delaware, where it belongs, Delaware being so located geo-

graphically that it cannot be attached to any other county, and the other counties named having sufficient population to entitle each to a Senator, he says they will not be added to Philadelphia for any purpose, and why? He does not object to it upon the ground that Philadelphia should not have more than one-sixth of the Senate, but because he says in the city of Philadelphia they cheat at elections. If you adopt the new Constitution upon the subject of elections, there will be no cheating in elections in Philadelphia or elsewhere, and hence his argument falls, and beside, by adopting the report of the committee, you will be doing some little justice by absorbing the surplus population of Philadelphia and adding it to Delaware. Thus Philadelphia will gain a proportional increased representation in the Senate chamber of the State.

I hope that this proposition, which is simply a piece of special legislation of the very worst kind, designed and intended for the sole and only purpose of swallowing up Montgomery county, will be well considered before it is adopted by this body. The people of Montgomery county, without regard to politics, are satisfied that their county shall be a senatorial district by itself, and we have a singular habit in our county of rotating on the question of Senator. Ever since the county has been a senatorial district, we have alternated with the opposite party in the election of a Senator, notwithstanding that we had, as a general thing, a considerable Democratic majority.

We have been freed, as I said, from the legislative gerrymandering, and now we are to be gerrymandered out of our rights here. After having earned them, after having fought for them, and after having succeeded in getting them from the Legislature, we are to be chained down forever by this constitutional enactment into a union that is unnatural as it is unjust.

Mr. HARRY WHITE. I regret exceedingly that my friend from Delaware (Mr. Broomall) cannot extend his vision beyond his own immediate district. I sympathize, however, entirely, with the views of my friend from Montgomery (Mr. Hunsicker) who has just taken his seat, in his address to the delegate from Delaware. I admit that there was a grave injustice attempted upon the county of Montgomery by the apportionment bill of 1864; but there was a great political,

necessity for it then. The country was in danger, and it was necessary to unite some christian counties, such as are represented by the delegate from Delaware, with Montgomery to do a little missionary service. The result of that experience has, however, demonstrated that this is now no longer necessary. The christianizing influences of that experiment have been felt in Montgomery, and the christians there are now able to take care of themselves.

I am entirely opposed, apart from the injustice which is alleged to Montgomery county, to the proposition offered by the delegate from Delaware. You will observe the proposition offered by the delegate from Delaware is radically different from that proposed by the Committee on Suffrage, Election and Representation, now under immediate consideration. By reading his proposition very carefully, you will discover that he provides that every county containing more than one sixth of the population of the State, as ascertained by the last preceding United States census, shall constitute a district and have eight members.

This is intended indirectly to reach the representation of Philadelphia. It practically makes the city of Philadelphia into one great senatorial district, and allows all the voters of Philadelphia to elect on general ticket all their Senators. I submit to the delegates from Philadelphia if that is fair. Representing the majority party of the State, which is in sympathy with the majority vote of the great city of Philadelphia, I could find no fault with it, for to speak plainly, it would give in the State Senate eight Republican Senators. I do not, however, want a result of that kind, for it is unjust to make it. I am in favor of single senatorial districts, and I am opposed, under any circumstances, to make double senatorial districts. It may be necessary, however, if Delaware objects to being associated with Philadelphia, to allow the Legislature to connect Delaware with the county of Chester or with the county of Montgomery as circumstances may require. I prefer entirely the proposition offered by the Committee on Suffrage, Election and Representation, as now lying upon our desks, to the proposition offered by the delegate from Delaware. If there is any one thing which has been settled by this Convention, it is that the Senate of the State shall not exceed in number fifty members, and we

have that before us as the proposition submitted by the Committee on Suffrage, Election and Representation. Then we have a proposition that no city or county shall be entitled, under any circumstances, to more than one-sixth of the aggregate number of Senators. That has been decided from time to time to be the overwhelming sentiment of this Convention; and it allows the city of Philadelphia eight Senators without requiring the necessity of electing those eight Senators in double districts.

As to other counties, it provides that no county shall be entitled to separate representation unless it has a population of forty-five thousand. I have taken the trouble of casting my eye over the State, under this calculation, and the practical result will be to give one Senator to Crawford, one to Erie, one to Westmoreland, one to Dauphin, two to Lancaster, one to Northampton, one to Lehigh, one to Montgomery, two to Schuylkill, two to Berks, one to York, one to Chester, one to Bucks, and to the county of Luzerne two or three, I have not taken the trouble to determine which, and of course in that county there will necessarily be a division. These are the single senatorial districts, and I submit, very frankly, that the majority of these districts will be, in politics, not to accord with the political majority of the State, but the remaining counties can be arranged upon the basis indicated in the section here, by being left to any Legislature according to the legislative discretion. I submit that this proposition is much fairer than that offered by the delegate from Delaware, who has no possible objection to it in his mind except that it unites Delaware county with a couple of wards in this city.

Why should there be any objection to that? Let me call the attention of the delegate to the fact that this does not propose to annex Delaware to the Third or Fourth wards of the city of Philadelphia, but to the Twenty-fourth and Twenty-seventh wards. These are wards where the political infamy and political chicanery, which it has been stated upon this floor have been practiced in the city of Philadelphia, I believe have not been so frequently resorted to. These two wards adjoin Delaware county, and their population is very much like the population of that county. Therefore I think that from necessity Delaware may be compelled to "accept the situation." I do not think it will be obnoxious to her people; but if



the people of Delaware object to it, then I will vote with the gentleman from Delaware for any amendment which will change that part of the report. Otherwise I am in favor of the report.

Mr. DARLINGTON. I think that I can suggest an amendment that will accommodate everybody. The difficulty, it seems, with the committee which had this subject in charge, was how to dispose of Delaware county.

Mr. ANDREW REED. Join her to New Jersey.

Mr. DARLINGTON. She cannot be annexed to New Jersey well. It is very certain that Delaware, by reason of her peculiar position, is isolated. There is no county anywhere to which she can be possibly annexed, save Chester or Montgomery. She has a population now, I believe, of over forty thousand. Montgomery has a population of over eighty thousand, and Chester has a population of eighty thousand, making in the three counties of Delaware, Chester and Montgomery at this moment at least two hundred and ten thousand people. Now, what is the ratio that you have adopted for representation in the State Senate? The ratio is the one-fiftieth part of three millions and a half, about seventy thousand. Now, under that ratio these three counties of Chester, Delaware and Montgomery will be together entitled, or very nearly entitled, at a fair estimate, to three Senators. Now, then, is it necessary to annex Delaware to either the one or the other? We have had Delaware annexed to Chester for a long time, and the result was that no matter what party succeeded Delaware had always her representative and Chester had hers. When Chester was annexed to Montgomery and had three members in the Legislature, it was a matter of certainty that Montgomery had hers, Delaware hers, and Chester hers. Always in a fair distribution that would be the case undoubtedly.

Mr. HUNSICKER. It was not the case.

Mr. DARLINGTON. There is no particular advantage to either Montgomery or Chester in having Delaware annexed to them. But the three counties are entitled together to three Senators. Now, I suggest, since this committee have made Delaware the exception and require that it should be annexed to some wards in the city of Philadelphia, which, of course, would be very distasteful to all the people of Philadelphia, that it would be far better to settle the matter by providing :

"But no county shall form a separate district unless it shall contain four-fifths of a ratio, except the county of Delaware, which shall be a separate district."

Montgomery and Chester would be willing to let Delaware remain by herself and always be a separate district. She could be annexed to no other county except the county of Philadelphia, the county of Chester, or the county of Montgomery. Her case is peculiar. She has now a population of forty thousand and upwards, which is very rapidly increasing. I think that if we were to annex her to either of the three counties named, it would always give her a Senator, whether she was annexed to Chester or to Montgomery, or to Philadelphia. She ought, in my judgment, however, to be a separate district, and that will solve this whole difficulty.

I therefore propose as soon as this proposition is voted upon, to move to amend, by inserting what I have read.

Mr. BROSMALL. I will withdraw my proposition for the purpose of letting the gentleman move his amendment.

The PRESIDENT. The gentleman from Delaware withdraws his proposition.

Mr. DARLINGTON. Then I move to insert in the seventh line of the sixteenth section, after the word "ratio," the word "except;" and in the eighth line to strike out all after the word "Delaware," down to and including the word "district," in the ninth line, and insert, "which shall be a separate district."

The PRESIDENT. The Chair was in error in stating that the gentleman from Delaware could withdraw his amendment. It cannot now be withdrawn.

Mr. DARLINGTON. I suggest that it may be withdrawn by unanimous consent.

The PRESIDENT. It may be done by unanimous consent.

Mr. DARLINGTON. Then I ask unanimous consent to allow the gentleman from Delaware to withdraw his amendment.

Mr. MACCONNELL. I object if the gentleman from Delaware is to bring up the question again, and have the right to make another speech upon it. If not, I do not object.

The PRESIDENT. The Chair cannot state whether the gentleman from Delaware will bring his amendment again before the House or not. Will the Convention agree to the withdrawal of the proposition of the gentleman from Delaware.

SEVERAL DELEGATES. I object.

Mr. BROOMALL. Then I ask that it be voted down, with the intention of offering it again if this proposition of the gentleman from Chester should fall.

The PRESIDENT. The question is upon the motion of the gentleman from Delaware, to go into committee of the whole for the purpose of inserting his proposition.

The motion was rejected.

Mr. DARLINGTON. I now offer my amendment to insert after the word "ratio," in the seventh line of the first section, the word "except;" and then to strike out all after the word "Delaware," in the eighth line, down to and including the word "district," in the ninth line, and insert: "which shall be a separate district."

The PRESIDENT. The Clerk will read the words proposed to be omitted.

The CLERK read as follows:

"May be united with adjoining wards of Philadelphia in order to form a district."

Mr. HUNSICKER. Please read the section as amended.

The PRESIDENT. It will be read.

The CLERK read the section as proposed to be amended, as follows:

"The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population, shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except the county of Delaware, which shall be a separate district; and no city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district.

Mr. BROOMALL. I have made a calculation and ascertained that one-third of the population of Chester, Delaware and Montgomery is 66,273, while the ratio of a Senator is 67,804, so that the three counties are entitled to three Senators, and if Montgomery and Chester choose to give their excess to Delaware, Delaware will certainly make no objection.

Mr. HARRY WHITE. The delegate is mistaken. The ratio is 70,486.

Mr. BOYD. Mr. President: We of Montgomery do consent to give that excess, if there be any excess, to the county of Delaware. If the gentleman from Delaware had reflected for a moment and had considered that the population of Montgomery, Chester and Delaware has increased since the last census, from which he has taken his data of the population, he would find, I am certain, that the population of these counties are already in excess of the number necessary to give three Senators to these three counties.

Mr. BROOMALL. Not much in excess.

Mr. BOYD. It would certainly reach it, because Montgomery is growing steadily, and Delaware is not only growing rapidly but almost beyond precedent when we take into consideration her chief town, the city of Chester. Why, I remember that it has not been many years ago when it had nothing more than a tavern, a blacksmith shop, Mr. Broomall's office and two or three other buildings. [Laughter.] Now it has, by reason of the capital that has gone into it in manufactures and other enterprises, grown into a city; and it will at no distant day be one of the important cities of this Commonwealth by reason of its location and its general surroundings.

Now, I appeal to this Convention that as this is a family arrangement, which concerns nobody but the three counties, the three counties are of sufficient importance, not only by reason of the representatives from each of them, [laughter,] but because of the merits which attach to them, and inasmuch as it affects no other county in the State, I do not see why this should not be accorded to us. To settle the trouble in Luzerne, we have accorded, although at first we were reluctant to accord it, the conclusion they came to among themselves. Luzerne is peace now. Then let Montgomery, Chester and Delaware be peace; for I tell you that if there is a disturbing element thrown into Montgomery county, she will come with her thunderbolts against this Constitution, and, you may depend upon it, it will be blown sky-high. [Laughter.]

Now, Mr. President, this is the first threat Montgomery county has made against your work here, and she does it to-day because she has a right to do it, and because everybody else does it. [Laughter.]

If this proposition is voted down it is plain enough that my friend from Delaware will renew his amendment, and the

practical effect of that amendment will be to tie Delaware to Montgomery, and although he has been polite, as he always is, on this occasion, yet he has been truthful at the same time when he has spoken as he has of the delegation from Montgomery county. [Laughter.] He could not have done less; and especially as *Bishop White* has endorsed the christianity of Montgomery, I do not see why Montgomery should not be now a district by itself and entitled to a Senator without having anything tied on to it as a make-weight. It is the fifth county in the Commonwealth of Pennsylvania; and that the county of Montgomery should be again annexed to Delaware, as it was in the past, when it never knew peace while it was so annexed and attached, is one of the things that Montgomery will never stand.

Now I say, Mr. President, vote for this amendment and let us settle this difficulty, because it has been a difficulty ever since this subject has been under discussion. We have discussed it weeks and weeks through the winter and early summer. The matter has been referred to a select committee; they have made a report; and I suppose that they found it to be a necessity to report as they did. If with this slight modification it can be accepted as harmonious and satisfactory to the entire body of delegates here, it ought to be done. I therefore trust it will be adopted.

Mr. LILLY. The Convention will hardly be carried away by looking to Delaware and missing the rest of the State. I think the north-eastern corner of the State should be considered as well as the south-eastern corner. We have as much right to be consulted in making up these districts. I have been looking over the counties, and I cannot see how the plan can work under the reading of this section. I cannot see where the counties can be put without doing great injustice to some of them. I trust the Convention will not pass upon this matter and tie themselves up until they have looked over the whole field and seen how the rest of us fare.

If a district could be made of three-fifths of a ratio, then I can see how the thing might work; but if you must take more than three-fifths of a ratio to form a district, you do great injustice to several counties in my neighborhood. Three-fifths of a ratio would give Carbon and Monroe a Senator. Three-fifths of a ratio

would give Pike and Wayne a Senator; but neither Pike and Wayne nor Carbon and Monroe can have a Senator, if you insist on four-fifths. There is no place to put those counties under this plan so as to do justice. If the section reported by the committee means that a district can not be formed with three-fifths of a ratio, there will be very great difficulty about it in the upper portion of the State; and the other portions of the State will have the same difficulty. The only way of getting over it will be by swelling the number of Senators beyond fifty; it will run up to near sixty. I do not see how the thing can be made to harmonize with the number fifty, dividing the State by fifty in this manner.

The gentleman from Delaware has, of course, Delaware always in his mind, and he ought to have, as he represents that county, but the Convention ought not to be led off by looking only to Montgomery, Delaware and Chester. There are other portions of the State to be considered. I cannot see how this matter can be fixed at all without making a positive amendment to this section saying that three-fifths of a ratio shall entitle a district to a Senator.

Mr. KNIGHT. Mr. President: I am in favor of this amendment because I think Philadelphia can afford to be liberal. And I favor it on another ground. We have been very busy for the last year or two here in reforming Philadelphia, and we do not want in future the trouble of reforming the county of Delaware. [Laughter.]

Mr. NILES. I trust this Convention has now arrived at a point where we can all see and appreciate the difficulty that surrounds us. I was one of the very few who believed at the start that we ought not to assume duties that belonged properly to the Legislature; that we ought simply to have fixed the number of Senators and Representatives, and left the future mingling of the counties together to the Legislature, to settle according to the exigencies of the times as they might arise. Much has been said in this Convention against legislative iniquities, against the outrages that have been perpetrated by legislative apportionment bills in the past; and yet to-day we propose to make an apportionment bill in the Constitution which is as wrong as anything that has been done by the Legislature in the past. You propose to say that thirty-nine thousand people in Delaware county are en-

titled to the same representation with ninety thousand in Philadelphia or seventy thousand in the rural portions of the State. I simply rise to protest against this, contenting myself with voting against the proposition.

The PRESIDENT. The question is on the motion of the delegate from Chester (Mr. Darlington.)

Mr. Boyd. I call for the yeas and nays.

Mr. HEMPHILL. I second the call.

Mr. DARLINGTON. I beg leave, in deference to the judgment of some others, to strike out "shall" and insert "may," so as to read, "may be a separate district."

The CLERK. The amendment is to strike out the words, "may be united with adjoining wards of Philadelphia, to form a district," and insert, "which may be a separate district," so as to make the section read:

"But no county shall form a separate district unless it shall contain four-fifths of a ratio, except the county of Delaware, which may be a separate district."

Mr. MANN. I ask what is the use of those last words? If we put in the exception, of course it may be a district. Those last words are mere surplusage. I am in favor of the idea, but I hate to vote in unnecessary words.

The PRESIDENT. The Clerk will call the names of delegates on the motion of the delegate from Chester (Mr. Darlington.)

The yeas and nays were taken, with the following result:

YEAS.

Messrs. Baily, (Perry,) Barr, Black, Bowman, Boyd, Broomall, Bullitt, Carey, Darlington, De France, Ewing, Hemphill, Horton, Hunsicker, Knight, M'Michael, Mann, Ross, Runk and Walker, *President*—20.

NAYS.

Messrs. Achenbach, Addicks, Alricks, Andrews, Baker, Barclay, Beebe, Bidle, Brown, Buckalew, Calvin, Campbell, Carter, Cassidy, Cochran, Cronmiller, Curry, Dallas, Dodd, Edwards, Elliott, Guthrie, Hanna, Harvey, Hay, Hazard, Howard, Landis, Lawrence, Lilly, Long, MacConnell, M'Clean, M'Culloch, Mantor, Minor, Mott, Newlin, Niles, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke,

Russell, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Turrell, Van Reed, Wetherill, J. M., White, Harry, Woodward and Wright—60.

So the amendment was rejected.

ABSENT.—Messrs. Ainey, Armstrong, Baer, Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Bigler, Brodhead, Church, Clark, Collins, Corbett, Corson, Craig, Curtin, Cuyler, Davis, Dunning, Ellis, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Green, Hail, Heverlin, Kaine, Lamberton, Lear, Littleton, MacVeagh, M'Camant, M'Murray, Metzger, Mitchell, Palmer, G. W., Palmer, H. W., Parsons, Pughe, Purviance, John N., Read, John R., Sharpe, Stewart, Struthers, Temple, Wetherill, John Price, Wherry, White, David N., White, J. W. F. and Worrell—53.

Mr. BUCKALEW. I desire to make some corrections which I suppose will not be objected to. In the ninth line I propose to strike out the word "and" and make the sentence end with the word "district." Then at the end of the fifth line the word "of" should be inserted after "surplus."

The PRESIDENT. Will the Convention unanimously agree to those suggested amendments?

Mr. HOWARD. No.

The PRESIDENT. Objection is made.

Mr. BUCKALEW. I will suggest an additional amendment, in connection with those, and then move to go into committee of the whole for the purpose of making them. I move to insert in the seventh line, after the word "ratio," these words: "And no county shall be divided unless entitled to two or more Senators." Of course that expresses the intention of the committee, and I suppose of the Convention, in all the forms that this article has assumed; but as the gentleman from Delaware raises the question that the intention is not expressed; it would probably be better to insert those words, which will put the whole matter beyond doubt.

The PRESIDENT. The question is on the motion of the delegate from Columbia (Mr. Buckalew.)

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

The CHAIRMAN. The committee of the whole have had referred section sixteen of the article on the Legislature with instructions to amend the same in

the fifth line by inserting the word "of" after the word "surplus," in the seventh line by inserting after the word "ratio" the words "and no county shall be divided unless entitled to two or more Senators," and in the ninth line by striking out the word "and," and making a new sentence, commencing with the words: "No city or county." These amendments will be made.

The committee rose, and the President having resumed the chair, the Chairman (Mr. Boyd) reported that the committee of the whole had made the amendments referred to them.

Mr. BROOMALL. I move to go into committee of the whole for the purpose of striking out in the seventh, eight and ninth lines of section sixteen the words: "The county of Delaware may be united with adjoining wards of Philadelphia to form a district." I ask for the yeas and nays on the motion.

Mr. HARRY WHITE. I second the call.

The yeas and nays were taken and resulted as follows:

YEAS.

Messrs. Baker, Barclay, Barr, Biddle, Black, Bowman, Broomall, Brown, Carey, Cronmiller, Curry, Darlington, De France, Edwards, Ewing, Fell, Fulton, Hanna, Hemphill, Horton, Hunsicker, Knight, M'Clean, M'Michael, Mann, Minor, Niles, Patton, Porter, Reynolds, Rooke, Runk, Simpson, Smith, Henry W., Turrell, Van Reed, White, Harry, Woodward, and Wright—39.

NAYS.

Messrs. Achenbach, Addicks, Alricks, Andrews, Baer, Bally, (Perry,) Beebe, Bigler, Boyd, Calvin, Campbell, Carter, Cassidy, Cochran, Dallas, Elliott, Guthrie, Harvey, Hay, Hazzard, Howard, Kaine, Landis, Lawrence, Lilly, Long, MacConnell, M'Culloch, Mantor, Newlin, Patterson, T. H. B., Purman, Purviance, Sam'l A., Reed, Andrew, Ross, Russell, Smith, H. G., Smith, Wm. H., Stanton, Wetherill, J. M., Worrell and Walker, *President*—42.

So the motion was not agreed to.

ABSENT—Messrs. Ainey, Armstrong, Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Brodhead, Buckalew, Bullitt, Church, Clark, Collins, Corbett, Corson, Craig, Curtin, Cuyler, Davis, Dodd, Dunning, Ellis, Finney, Funck, Gibson, Gilpin, Green, Hall, Heverin, Lambertson, Lear, Littleton, MacVeagh, M'Camant,

M'Murray, Metzger, Mitchell, Mott, Palmer, G. W., Palmer, H. W., Parsona, Patterson, D. W., Pughe, Purviance, John N., Read, John R., Sharpe, Stewart, Struthers, Temple, Wetherill, John Price, Wherry, White, David N., and White, J. W. F.—52.

Mr. HARRY WHITE. I move to go into committee of the whole for the purpose of striking out the sixteenth section and inserting in lieu thereof the following:

"The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall elect one Senator. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. The ratio for senatorial representation outside of Philadelphia shall be obtained by dividing the whole population of the State, omitting Philadelphia, by five-sixths of the whole number of Senators. Each county shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus population exceeding three-fifths of a ratio; but no county shall form a separate district unless it shall contain four-fifths of a ratio. No ward, borough, or township shall be divided in the formation of a district, nor shall any county be divided unless entitled to two or more Senators."

The Convention will observe that this is exactly the principle of the section as reported by the committee, except as to the mode of ascertaining the ratio. The ratio is ascertained under section sixteen as finally reported, by dividing the whole population of the State, including Philadelphia, by the total number of Senators. This changes it in that regard and ascertains the ratio of senatorial representation by dividing the population of the State, omitting Philadelphia, by the whole number of Senators. I apprehend this is fair, and that is the only feature of the proposition offered by the delegate from Delaware that I have accepted. It is perfectly right that the ratio of representation in the Commonwealth at large shall be ascertained by dividing the population of the State outside of the city of Philadelphia. It makes a difference of only about three thousand, which may be somewhat material to our interests, not politically, but in a fair distribution of representation.

Then I call attention furthermore to the fact that it omits the provision which requires the county of Delaware to be added to the city of Philadelphia. I am per-

fectly willing to leave that matter to the discretion of the Legislature from time to time. Otherwise it is exactly like the proposition offered by the committee.

Mr. BROOMALL. It will be impossible for the Legislature to unite Delaware to the two wards of Philadelphia under the gentleman's amendment, or under the report of the committee. In fact, under the gentleman's amendment, or under the report of the committee, it will be impossible for the members of the Legislature under the rules, to do anything for Delaware at all.

Mr. HARRY WHITE. Allow me to ask, what is to prevent the Legislature from uniting Delaware with either Chester or Montgomery?

Mr. BUCKALEW. Because the section in the most positive terms provides for the separate representation of a county for a ratio, and for an additional Senator where there is three-fifths of a ratio.

Mr. HARRY WHITE. That does not prohibit them from adding a county.

Mr. BUCKALEW. Certainly it does. Chester and Montgomery, under the precise language of the section, must have separate representation. So must the county of Philadelphia. Delaware, with half a ratio and a little over, could not be put anywhere, because it requires four-fifths of a ratio to entitle a county to a Senator by itself. She could not be united with any other county to form a district, because she does not adjoin any county not entitled to separate representation, so that it would be impossible to do anything with the county of Delaware at all. It was that absolute necessity that compelled the committee to report this clause with regard to Delaware county, and you cannot do otherwise, unless you proceed to change the whole basis of this section with regard to separate representation. This clause with regard to Delaware must remain, or some other disposition must be made of our plan of representation.

As to the other point which the gentleman makes in favor of his amendment, that is that it will arrange the calculation of the ratio in a better manner, the only difference will be that his ratio will be somewhat less than one calculated upon the entire population of the State. But he will observe that the Committee on Revision and Adjustment have provided that a county with four-fifths of a ratio shall have a Senator, which makes amends, so as to speak, for any loss which would otherwise accrue to counties upon

the given ratio, including Philadelphia. That is, a county with four-fifths of a ratio under the provisions that were reported, would be quite as well off as if it was entitled to a Senator upon a full ratio on his mode of calculating the ratios.

Mr. BROOMALL. I know the Convention will excuse me for taking the interest I do in this question, when I say that Delaware, Chester and Montgomery, being entitled to within five men of three Senators, have a right to demand of this Convention that the Legislature be not prevented, at least, from making them one district entitled to three Senators. If the Convention could not see the force of the argument of the gentleman from Chester that the rest of the State ought not to have felt any very great interest in Montgomery and Chester, allowing their excess to Delaware, at least the three counties being entitled to within five men of three representatives in the Senate, have the right to demand that the Legislature be not prevented from giving them to them if it sees proper to do so.

If I did not know that the gentleman who sits before me (Mr. Buckalew) is no politician, has no political ideas in his head, never said a word nor did an act from political motive, I should suspect him of intending purposely to pile Delaware county, with its three-fourth Republican majority, upon the two-thirds Republican majority in the only two wards of the city of Philadelphia that can possibly be united to it. I do not suspect him of that design, because I know that he has no political ideas of any kind and that he has not allowed any consideration of that kind to enter into his action! But it is peculiar! Was it for the purpose of making that unholy alliance of parties that would repudiate one another in advance, that this four-fifths provision was put in instead of three-fifths? Was that the reason? Was it seen that Delaware county had so close to three-fifths that it might be unsafe to insert three-fifths.

Mr. HUNSICKER. Will the gentleman from Delaware allow me to ask him a question?

Mr. BROOMALL. No, sir! Was it because it was seen that Delaware had so close to three-fifths of a ratio that four-fifths was inserted instead of three-fifths, in order to force this unnatural marriage? Why, sir, they admit that three-fifths in a county that is already entitled to one, shall entitle it to another Senator. If three-fifths there is entitled to a Senator

why should not three-fifths anywhere else be?

And if you come to that, how near is Delaware to three-fifths? Three-fifths of a ratio is forty thousand six hundred and eighty-three. Delaware now has thirty-nine thousand four hundred and three, only one thousand less, and yet she is said to have a little over half of a ratio. Ah! was there a design in this? I expect not. Most certainly there was not; but it is singular that three-fifths should not entitle us to a separate representation.

Mr. President, our course from the day to the end of the session I must protest against any such matter as this. I say now that I know the Convention will stand by me in demanding probably not the remedy suggested by the gentleman from Chester, but certainly in demanding some remedy from it. The remedy proposed by the gentleman from Indiana will answer the purpose. I see no reason why a matter like that should not be left to the Legislature. I see no reason why the hands of the Legislature should be tied in this manner. If anybody will point out to me any reason, I should like to know it. I hope his amendment will prevail, and if it does not, there are other ways that can be contrived, and the voice of my district is not easily hushed upon a question that interests it so nearly.

Mr. HUNSICKER. I would like to hear this proposition of the gentleman from Indiana read.

The PRESIDENT. It will be read.

The CLERK read the proposed substitute for section sixteen as follows:

"The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall elect one Senator. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. The ratio for senatorial representation outside of Philadelphia shall be obtained by dividing the whole population of the State, omitting Philadelphia, by five-sixths of the whole number of Senators. Each county shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio; but no county shall form a separate district unless it shall contain four-fifths of a ratio. No ward, borough or township shall be divided in the formation of a district, nor shall any county be divided unless entitled to two or more Senators."

Mr. HUNSICKER. I have nothing more to say.

The PRESIDENT. The question is on the motion of the gentleman from Indiana.

Mr. HARRY WHITE. On that motion I call for the yeas and nays.

Mr. HOWARD. I second the call.

The yeas and nays were taken and were as follow, viz:

Y E A S .

Messrs. Addicks, Andrews, Beebe, Bowman, Broomall, Carey, Curry, Darlington, De France, Edwards, Ewing, Fulton, Hanna, Hazzard, Horton, Knight, Lawrence, Lear, Lilly, Long, M'Michael, Mann, Mantor, Minor, Niles, Porter, Runk, Russell, Simpson, Turrell, White, Harry, and Walker, *President*—32.

N A Y S .

Messrs. Achenbach, Alricks, Armstrong, Baer, Baily, (Perry,) Baker, Barclay, Barr, Biddle, Bigler, Black, Boyd, Brodhead, Brown, Buckalew, Calvin, Campbell, Carter, Cochran, Corbett, Cronmiller, Cuyler, Dallas, Dodd, Elliott, Guthrie, Harvey, Hay, Hemphill, Howard, Hunsicker, Kaine, MacConnell, M'Clean, M'Culloch, Mott, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Purman, Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Ross, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton Van Reed, Wetherill, J. M., Woodward and Worrell—55.

So the motion was not agreed to

ABSENT.—Messrs. Ainey, Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Bullitt, Cassidy, Church, Clark, Collins, Corson, Craig, Curtin, Davis, Dunning, Ellis, Fell, Finney, Funck, Gibson, Gilpin, Green, Hall, Heverin, Lamberton, Landis, Littleton, MacVeagh, M'Camant, M'Murray, Metzger, Mitchell, Palmer, H. W., Parsons, Pugh, Purviance, John N., Read, John R., Sharpe, Stewart, Struthers, Temple, Wetherill, John Price, Wherry, White, David N. White, J. W. F. and Wright—40.

Mr. DARLINGTON. I move that the Convention resolve itself into committee of the whole for the purpose of amending by striking out all after the word "ratio" in the fifth line of section sixteen to and including the word "ratio" in the sixth line. The words to be stricken out are: "and to an additional Senator for a surplus of population exceeding three-fifths of a ratio."

I think most of the difficulty, so far as I can perceive, in getting up any kind of an apportionment, arises from the attempt to give a member to less than a ratio, to a proportion of a ratio. When we divide the State into fifty senatorial districts, why should we give to a county that has less than a ratio a member, or to one that has more than a ratio and less than two ratios two members. What reason is there for it? I suppose the effort is to get as equal a representation as possible throughout the State; but I submit that it is impracticable to arrive at exact equality under any circumstances, and that any effort made to give a member to less than a ratio can only result in trouble. I think we should get rid of all the difficulty that we have before us by just striking out these words, and then the section would read: "Each county containing one or more ratios of population shall be entitled to one member for each ratio," and there stop.

Mr. LILLY. What will the gentleman do with the surpluses?

Mr. DARLINGTON. I would answer that by saying that I would wait until the next census and then let the surpluses be made into a ratio by the people of the district.

Mr. LILLY. If you want to make fifty senatorial districts you will find it will not hold out. You will be throwing away so many of these surpluses that you cannot make a Senate. I would agree with the delegate's idea provided he would allow counties to be divided to make districts, but dividing no ward or township, and the section says that—dividing counties so as to let the Legislature make up the ratio, and nothing more.

Mr. DARLINGTON. Exact representation is not important. It is not important to the government that a county having ten thousand more people than another should have a representative for those ten thousand. Practical equality is all that we can arrive at. There is no such thing as exact representation; and if there was it would not remain so a year, because the population would increase in one place and diminish in another. What we want is a practical equality of representation. That is obtained by fixing a ratio and adhering to it, and giving no representation to fractions.

Mr. HARRY WHITE. Mr. President: I am going to vote with the delegate from Chester in his motion. I sympathize with the argument he has made, for I see

how we can get out of some trouble that other delegates have suggested here. The delegate from Carbon, by his question, indicates that the section will be entirely impracticable if the motion of the delegate from Chester prevails. I do not think so at all. While I have no hostility whatever to the section as I find it here, yet I did not want the vote of an entire county against our entire work, because there are some provisions in the senatorial apportionment clause that do not suit them. That was one reason I had for desiring to relieve the county of Delaware from the difficulty. But the motion of the delegate from Chester accomplishes the same object, and if that prevails it cannot be said that Delaware and Greene, and some other counties that are in that situation will be embarrassed hereafter by any iron rule. On this question of senatorial apportionment we have left it almost entirely to the discretion of the Legislature. Apart from the provision allowing each county that has four-fifths of a ratio to be made into a separate district, we have indicted no rule whatever that will affect politically the complexion of the Senate hereafter, or will prevent what is called a political gerrymander of the State.

Now I submit that in view of this fact, in view of the fact that we allow the Legislature to have a discretion on the subject, we should take out the impracticable rule which has been suggested here, and which the delegate from Chester seeks to correct by striking it out.

Mr. BUCKALEW. I do not understand what the gentlemen mean. Do they mean that no county shall have a second Senator unless she shall have a full second ratio, and so on successively according to full ratios? If that is what they mean, the result would be grossly unjust; the Legislature could not give a county a second Senator when she would have ninety-nine hundredths of a second ratio, and when the giving of her that second Senator would be necessary to make up the full number of the apportionment.

Mr. HARRY WHITE. Let me ask a question. We allow full representation for four-fifths—

Mr. BUCKALEW. Ask the question. I do not want a speech.

Mr. HARRY WHITE. What right has one county to have an additional member for three-fifths of her population, when another district has only one for a full ratio?

Mr. BUCKALEW. I could give a very satisfactory answer to that if I took time. But I will answer it in Yankee fashion, by asking what is the reason that a county with one, two, three, or four representative ratios should have an additional representative for a fraction of one-half? When the gentleman finds out the reason for that, he will find out, I suppose, the reason for our requiring three-fifths instead of one-half, to give an additional Senator.

Now, one of two things is a necessity under this proposed amendment. The Legislature will be forbidden to give any county with more than one ratio a second or third or fourth Senator for anything else than a second, third or fourth full ratio, although upon a large fraction the allowance ought justly to be made to such county to make out or complete the general apportionment of the State. If that is not the effect of the amendment, I am mistaken. But the alternative is this: If that is not the rule the Legislature have it all left to their discretion, and they can gerrymander counties at pleasure. They can give one county with a ratio and a third a second Senator, and another county with a ratio and nine-tenths only one.

So that one or the other result under this amendment is inevitable: Either the grossest injustice, by prohibiting the Legislature from assigning second and third Senators to counties, or, on the other hand, most unlimited gerrymandering in the formation of districts by cutting up counties; both of which results are carefully excluded by the report of the committee, and not by the report of the committee alone, but by the prior votes of this Convention.

The PRESIDENT. The question is on the motion of the delegate from Chester (Mr. Darlington.)

The motion was not agreed to.

Mr. BROOMALL. I move to go into committee of the whole for the purpose of striking out all after the word "ratio" in the sixth line of section sixteen, down to and including the word "and," in the ninth line, and inserting at the end of the section the words, "and no county shall be divided except where necessary to equalize representation."

SEVERAL DELEGATES. How will it read?

Mr. BROOMALL. I will read the sentence as it would then read:

"Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district, and no county shall be divided except where necessary to equalize representation."

Mr. HARRY WHITE. May I ask what is the effect of that?

Mr. BROOMALL. The effect of that will be to let what probably certain gentlemen in this Hall would object to—to let two townships from Montgomery county, or two townships from Chester to be added to Delaware to make a district, rather than to attach it to Philadelphia. That is the effect of it; nothing more, nothing less. That is the object of it.

Mr. HUNSICKER. Or to attach the whole of Montgomery county to Delaware?

Mr. BROOMALL. No; it will not attach the whole. In the case of Delaware county, a division of something is necessary. The committee propose to divide Philadelphia because it suits their purposes. I want to take a fraction of either Chester or Montgomery, rather than Philadelphia. I want anything rather than the report of the committee. I will have something else. I want to be attached to New Jersey. [Laughter.] I want to be attached to the State of Delaware. I want to be erected into the State of Delaware number two. I want anything rather than the unholy alliance to which these gentlemen are trying to condemn me, and I assert that there is not a man, or woman, or child in my district but what will echo that determination, and if I leave here without producing an alteration in this particular, if it can be done by any parliamentary means whatever—and I understand some of them—every man, woman and child would meet me at the borders of the county and repudiate me.

Mr. BEEBE. I hope while the gentleman from Delaware appeals for himself and his constituents, he will extend the broad mantle of his humanity over the whole State, and consider this matter in an equal light for all. In many of the questions that have come up here, the delegates from the eastern portion of the State have an eye to their counties and

their own interests; but when we rise to represent the condition of things in the west they are very busy going about the House or into the committee rooms.

Now, sir, as one concerned for the interests of the Commonwealth of Pennsylvania, I wonder that the gentleman from Delaware has not represented a thing under which we have been suffering quite equal to anything he might suffer if all was entailed on Delaware county that he has suggested here to-day by virtue of this section or otherwise?

The gentleman from Tioga (Mr. Niles) gravely purposes to remand this to the Legislature to again do what has been done heretofore, as I shall state.

It is not a political question that I am talking about at all. In the last apportionment by a Republican Legislature the grand old county of Crawford, with sixty-three thousand inhabitants, by virtue of a decree of the Legislature, was given a Senator. It was a good Republican county at that time. It did not do so well in the last election, but it was all right then. Then the next process was to make another district; and to do that they took the counties of Venango, with a population of about fifty thousand, and Mercer, with a population of more than fifty thousand, and put them together, giving sixty-three thousand in Crawford a Senator to one Senator for one hundred thousand people in these two counties, and then said we will throw in the little county of Lawrence, with a population of less than thirty thousand; all Republicans, making about one hundred and twenty-five thousand for our senatorial district, with a distance of one hundred miles from point to point, while Crawford county, with sixty-three thousand people, has a Senator. In our district there are thousands of people that never saw each other or had any identity of interest, or knew who represented them at all. Let a Senator come from the city of New Castle, as in our case, and I venture to say that few of the people of Venango county, outside of the politicians, could ever tell whether they had a Senator and what his name was.

This is an evidence of the wisdom of the Legislature; and my friend from Delaware says this report is an evidence of the wisdom of this Constitutional Convention; and I still aver that if they suffer everything that he prophesies will bring destruction on the county of Delaware, so that his constituents will

meet him at the border, every man, woman and child at his back—they are not suffering anything more than we are quietly; but we have not complained to this body.

I trust something will be done by this Convention in arranging some of these propositions so that not only the injury done to the county of Delaware will be considered, but that the western portions of the State will be provided for, so that counties now attached together there will be duly considered likewise.

Mr. EWING. Mr. President: I shall vote for the amendment of the delegate from Delaware, but looking very considerably beyond the county of Delaware I shall vote for it, and if it fails to carry, for any similar proposition, because I conceive that under the provisions of the section as it now stands amended, it is utterly impossible to make a fair apportionment of the State for the Senate. Either you must permit counties to be divided in making senatorial districts or you must not limit them to single districts, or you must have gross inequalities in the population that it takes to make a senatorial district.

I shall say nothing of Delaware county, and yet I could not see why some provision should not be made so that the three adjoining counties of Montgomery, Chester and Delaware should be allowed among them to have three Senators. They are entitled to that number. But going to other parts of the State, under the provision as it stands, Berks county, with 100,000 inhabitants, will get one Senator, and one alone; it cannot be divided. Schuylkill county, right along side of it, with 116,000, will get two. That may be fair, but I do not see it; and yet you can make a single district very fairly by dividing Berks county, taking a portion of Berks county that will entitle it to one Senator and putting the rest with Lebanon county, and it will give precisely, or within a few hundred, the proper ratio for a second Senator.

So if gentlemen will look at the western part of the State, I think they will find it utterly impossible to district the State for the Senate under the provisions we have here forbidding the division of a county, without gross injustice. Some of the districts would be very small and others very large.

In determining representation in the House we have allowed each county its Representative. We respect county lines

there. The Senate, I think, may properly be constituted in a different manner, and we might ignore county lines. There are some objections to that, but the reasons are so strong for it that I shall vote for any proposition which will give the Legislature authority to do that, and then hope it will be limited, so far as it may be possible, to prevent the improper cutting up of counties.

Mr. HOWARD. Mr. President: The subject before the Convention certainly has taken very considerable time and elicited a great deal of discussion. I have made up my mind to support this proposition as it comes from the committee. I shall do it because I do not believe the Convention can do anything better unless they shall simply provide for the number of Senators and the number of members of the House of Representatives and leave the entire apportionment to the Legislature. I once supported that proposition of leaving it entirely to the Legislature after a very long discussion, and a failure, as I understood it, to make any satisfactory apportionment by the Convention.

Now, Mr. President, I am satisfied that the only safe course for the Convention to take is to adhere to the report of the committee, stand by it as a whole, and adopt it if we mean to make an apportionment of the State. You must either do that, in my judgment, or go back to the other proposition and leave the apportionment entirely to the Legislature. It is a very difficult question. We cannot please everybody. This is impossible. Any apportionment that we can make, any apportionment that the Legislature can make, gentlemen may rise in their places and say is unfair in this or is unfair in that. It is a subject of such great difficulty that it is impossible that we can make it perfectly fair to every district and to everybody. Therefore, having spent so much time upon it, having got it so far, having had it before the Convention so long a time, and in the hands of this special committee and having had this report, which I think is a fair one, I believe it is better to adhere to it.

So far as the delegate from Delaware is concerned, I do not suppose this Convention will be able to please him at all. I understand, as far as they have gone in their work, they have not pleased him in anything; at least, if they have, I do not know the particular subject. I understand that the delegate from Delaware

would like to go to New Jersey under certain circumstances. For myself, if I had the power, he should have a unanimous vote to go to New Jersey immediately. [Laughter.] And I should be glad to see him on board the ferry boat and taking his landing on the other side.

Mr. BROOMALL. I rise to explain. Probably I could compromise with the gentleman by resigning on the Railroad Committee and having him put in my place. [Laughter.]

Mr. HOWARD. Very well. I think the gentleman would make a very good move if he would do that, and a very acceptable one to the people of the Commonwealth. I mean to support this Constitution and I mean to support the railroad article, if possible; but I doubt very much whether I can support anything that comes from the delegate from Delaware. It seems this Convention cannot do anything he is willing to support, and he says he will have his way anyhow. He has given us notice this morning that if he cannot get it in one way he is going to get it in another. I should like to see a picture of Delaware drawn with the delegate standing on the high street claiming to the people as the young man is represented on the mountain "Excelsior." [Laughter.] No doubt the delegate from Delaware thinks he can do better than a majority of this Convention. I do not think he can. Conceding to him all the talent and all the ability that any one is willing to accord to him—and I am willing to concede a great deal—we after all have got to do some practical work here, we have got to get down to business, and I do not believe when we come to consider this matter fairly that we can make any better apportionment than is made by the report of this committee, and I hope the Convention will adhere to it. Just as certain as we depart from it, the door will be opened, and we shall be at sea again, and there will be no remedy, I repeat again, except to go back to the proposition that the Legislature shall make the apportionment out and out unless perhaps we may agree that the Senate shall consist of fifty and the House of either one hundred and fifty or two hundred members.

The PRESIDENT. The question is on the motion of the delegate from Delaware (Mr. Broomall.)

The motion was not agreed to.

Mr. BROOMALL. I move now to go into committee of the whole for the purpose

of striking out the entire section after the word "Senator," in the third line, so as to leave it read simply: "The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator."

Mr. President, if any gentleman in this Convention will take up the project of the committee and try to work it out he will find that it is just as impracticable in some other parts of the State as in Delaware county. Why this was not seen, I do not know. The gentleman from Allegheny (Mr. Ewing) has discovered one difficulty, and there are others. All it wants is for gentlemen to look at it. We must do one of two things. We must either let this matter be with the Legislature, or we must come as near as we can to county representation in the Senate. This proposition of mine proposes to leave it to the Legislature. The gentleman from Allegheny has well said that we might as well make up our minds to do something of that sort. After all, the Legislature under the power given them will have very little more power to gerrymander than it would have under the project reported by the committee. I hope my amendment will be adopted, and then at last the section will be good English.

Mr. LILLY. Mr. President: I long ago came to the same conclusion. Before the committee was appointed, or at least before this article was sent back to the committee, I made up my mind that the only thing we could do in regard to districting the State into senatorial districts was to leave it to the Legislature, and let them fix it up, with no restriction on them, but allowing them to cut up counties if they pleased. They can do it a great deal better than we can. They will have to do it every ten years, and then they can meet the changes of population better than we can, and they will know what is best to be done—certainly much better than we can know. I think, therefore, it is much better to leave it to them. I have tried to work this plan out in my section of the State, and I have run against snags in every direction. I cannot make it work at all. I cannot make the districts come out in any shape. It can only be done by transferring counties from the districts to which they naturally belong, to other districts. Unless this be done I do not see how it is possible to make this plan work.

Mr. HARRY WHITE. I wish to move an amendment to this proposition.

SEVERAL DELEGATES. That is not in order.

Mr. HARRY WHITE. I submit to the Chair that I have a right to move to amend the motion now made by the delegate from Delaware. He moves to go into committee of the whole for the purpose of making a certain amendment. I accept the motion to go into committee of the whole, but move to add to his amendment some additional words.

The PRESIDENT. That is not in order. The Chair has decided over and over again that such an amendment is out of order.

Mr. BROOMALL. I had not noticed originally that my motion would leave out the provision restricting Philadelphia to one-sixth of the whole number of Senators. I therefore modify my amendment so as to strike out all of the section except the words which I will now read:

"The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators."

Those two sentences are all I propose to leave of the section.

Mr. BUCKALEW. Mr. President: Ever since free government was established in this State, it has been a principle of our system that no county should be divided in forming senatorial districts. It was so written in the Constitution of 1790, and it is there yet in the Constitution, and there is no desire on the part of the people of this State that that provision should be changed. The Convention heretofore has voted to retain it; the committee has reported it; but the gentleman from Delaware informs us that he understands parliamentary tactics and that he will continue to assail this section and this report until he accomplishes his object. Well, sir, he will have accomplished his object of making ship-wreck of this article and of our whole work in the organization of the Legislature if he shall carry this amendment.

Sir, the people of the State do not intend that the Legislature shall have *carte blanche* to cut and carve every county in this State at their pleasure, limited only by the poor provision that they shall not cut and carve boroughs, wards and town-

ships. The result will be that the political majority in the Legislature, with fifty senatorial districts to make, and the map of the State open before them, can write thirty-five or forty districts down for one party to ten or fifteen for the other. That is what it means; and beside that, it means an outrage upon numbers to any extent that the Legislature, or a majority of the Legislature, may desire.

I am not in favor of dividing this State into single senatorial districts. That provision is not in this article by my vote or by my consent. But as a member of the Committee on Revision, to whom this subject was referred, I found in that committee this voted in and established by the Convention, and all that we did was to put it in form so that it would work; therefore we inserted the clause in regard to Delaware; therefore we inserted several other clauses. Our intention was that this proposition of single senatorial districts throughout the State, which the Convention had ordered, should be put in such a form that it could work and would work; and it will work just as well as our present system, so far as the point in debate is concerned; for with the provision that three-fifths of a ratio shall entitle a county to a second Senator, or that with a similar fraction over two ratios it shall have a third Senator, the thing will work. It is very true you will not have mathematical equality; but mathematical exactness is perhaps not important in the Senate. We take the idea of territory to some extent into account and we desire that communities shall have representation in that branch by this provision.

Sir, the gentleman from Delaware, in the desperation of his argument against this section, undertook—I say undertook by suggestion—to excite certain antipathies or prejudices against the committee and against myself, a member of it, insinuating that we had some political object in uniting the county of Delaware with a part of Philadelphia. Why, sir, absurdity could go no further. So far as that imputation is concerned, I hand it back to the source from whence it came. Philadelphia is limited to eight Senators by the constitutional provision wherein we have said that no county shall have more than one-sixth of the entire membership of the Senate. Then what is the effect of this? It is to give the city of Philadelphia a participation in a ninth Senator. Here is a fraction of her population to be

used with Delaware, which would otherwise be unrepresented. It is to be used in the formation of an adjoining district on the principle of necessity. Does that limit the importance of the city of Philadelphia as a political community, as a great republican city? No, sir, it increases it. What does it do as to Delaware? It gives to her and the fragment of Philadelphia joined to her an entire Senator in the upper branch of the Legislature of the State; and at present, and as far as we can see in the future, it insures that Senator to that political organization to which the gentleman from Delaware belongs. Where, then, rests this imputation? It is idle. I am afraid, sir, it is produced because nothing better can be said in criticism of the action of the committee, not one member of which ever thought of any political question in connection with this association of Delaware with Philadelphia. If there be anything in it, it is an association favorable to the political interest to which every one knows that I have been opposed.

But, Mr. President, the question, as I understand it before the Convention now, is this: Will you maintain this plan of single senatorial districts throughout the State? If you do, here, in the details which the committee have reported, is a working plan. If you have changed your minds and think single senatorial districts throughout the State ought not to be preserved, I am perfectly agreed. I should be willing to strike it all out and go to work to devise some plan more acceptable. I consider the whole question indirectly raised by every one of these amendments which have been offered, and which are likely to be offered—the whole question is, shall we have single senatorial districts? I submit, if we are to have them, continue them on the plan of the committee if you want to do justice.

THE PRESIDENT. The question is on the motion of the delegate from Delaware (Mr. Broomall.)

The motion was not agreed to.

MR. BROOMALL. I move, Mr. President, that the Convention go into Committee of the whole for the purpose of striking out the sixteenth section and inserting the following in lieu thereof:

“The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. No

county shall be divided in the formation of a district; and no city or county shall be entitled to more than one-sixth of the whole number of Senators."

The argument of the gentleman from Columbia was based upon the fact that I had left out the provision that no county shall be divided, which he says has been a principle adhered to since the formation of the State. I have now inserted that, therefore, I suppose, securing his vote in favor of this amendment of mine. The only other change that I have made is that I have rendered into English the last sentence: "No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators." That I do not understand. I have made it read: "No city or county shall be entitled to more than one-sixth of the whole number of Senators." This is English, and is plain.

Mr. BUCKALEW. I desire to explain that that provision is necessary, because of the clause in relation to Delaware county. It is necessary to enable the city of Philadelphia to retain her eight Senators separately assigned to her.

Mr. BROOMALL. It does not exactly do that, because it would give Philadelphia eight Senators and about three-eighths of another one, which is more than her proportion according to the section. It is more than one-sixth of the whole; eight and one-third would be a sixth of the whole. I trust that the Convention will see that this proposition of mine is about all we can do in justice to ourselves and to the Legislature of the State.

The PRESIDENT. The question is on the motion of the delegate from Delaware.

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

Mr. ROYD. I second the call.

Mr. HARRY WHITE. I, for one, shall vote with the delegate from Delaware for his proposition, and in voting for that proposition I think I am entirely consistent. If delegates will take the trouble to look at this matter, they will discover that the present Constitution is actually more restrictive than the original section as we find it on our desks. Since this subject has been up this morning, taking up the proposition of the Committee and distributing the Senators on the principle of four-fifths of a ratio for one Senator and three-fifths of a ratio in excess of another, I find that we run into interminable difficulties in many parts of the State. Of

course these difficulties will be met; of course the Legislature will make an apportionment; but in order to make that apportionment, and in order to approach any degree of fairness in making the apportionment, the letter, if not the spirit, of the section under consideration will have to be disregarded. Hence I am in favor of striking out entirely from the section that portion allowing separate representation for four-fifths, and in some cases, for three-fifths of a ratio. That is all that the proposition of the delegate from Delaware seeks to do. He accepts the principle of the section, but provides, by his amendment, that the State shall be divided into fifty senatorial districts, and that those senatorial districts shall be as equal in population as may be, and he provides furthermore that no city or county shall be entitled to more than one-sixth of the entire representation. His amendment merely excludes the principle of allowing representation for fractions.

I submit to the Convention that that simple proposition is fair in itself, is much fairer than the plan reported from the hands of the committee, embarrassed as it is by the allowance of representation for four-fifths and for three-fifths of a ratio.

I hope that any feeling which may exist by reason of any little controversy that occurred in this Convention on Friday last, will not control delegates in their votes upon this question. I submit that there is no politics whatever in this matter; that leaving it to the discretion of the Legislature removes it entirely from any political consideration. I admit that if I wanted that which would make in favor of my own party more than another party, I would take the proposition as it comes from the committee rather than that offered by the delegate from Delaware; but because it is fairer, because it is more practicable, because it will relieve us of some difficulties that stare us in the face, if we examine the map and seek to work out this plan, I am in favor of his proposition.

Mr. LILLY. I should like to know why the sixteenth section says that a county having a ratio and three-fifths of a ratio shall have two Senators, while a county not having a full ratio may have a Senator on four-fifths of a ratio. It seems to me that that should be reversed on any principle of justice so as to entitle the smaller number to have a single Senator and re-

quire the larger number in order to secure double representation in the Senate. I think there must be some mistake about this section. It provides that counties having a ratio and three-fifths of a ratio shall be entitled to two Senators, while a county must have four-fifths of a ratio to be entitled to one Senator. I should like to know why that is.

Mr. HAY. I think I can explain that to the delegate from Carbon. The provision giving two Senators to a county having one ratio and *three-fifths* of a ratio of population, while a small county must have four-fifths of a ratio to be entitled to one Senator, produces precise equality. A county which has a ratio and three-fifths of a ratio has altogether, say, eight-fifths of a ratio, and is entitled to two Senators, one for each four-fifths of a ratio, while a county having but four-fifths of a ratio gets one Senator, precisely one-half of the number obtained by a county having the one and three-fifths ratio. It is exact equality; and there is no ground for complaint against the section on this score.

The PRESIDENT. The Clerk will call the names of delegates on the motion of the delegate from Delaware, (Mr. Broomall,) the yeas and nays having been ordered.

The yeas and nays were taken and were as follow:

Y E A S.

Messrs. Andrews, Baker, Bowman, Broomall, Carey, Darlington, Ewing, Fulton, Hanna, Horton, Lawrence, Lilly, Littleton, Mann, Niles, Reynolds, Rooke, Runk, Russell, Simpson, Turrell, White, Harry and Walker, *President*—23.

N A Y S.

Messrs. Achenbach, Addicks, Alricks, Bally, (Perry,) Bailey, (Huntingdon,) Barclay, Barr, Beebe, Biddle, Black, Boyd, Buckalew, Calvin, Campbell, Carter, Cochran, Corbett, Cronmiller, Curry, Cuyler, Dodd, Edwards, Elliott, Gibson, Gilpin, Guthrie, Harvey, Hay, Hazzard, Hemphill, Heverin, Howard, Hunsicker, Kahe, Landis, Long, MacConnell, M'Clean, M'Culloch, Mantor, Minor, Mott, Palmer, G. W., Patterson, T. H. B., Purman, Purviance, Sam'l A., Reed, Andrew, Ross, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Van Reed, Wetherill, J. M., and Worrell—55.

So the motion was not agreed to.

ABSENT.—Messrs. Ainey, Armstrong, Beer, Bannan, Bardaley, Bartholomew, Bigler, Brodhead, Brown, Bullitt, Cassidy, Church, Clark, Collins, Corson, Craig, Curtin, Dallas, Davis, De France, Dunning, Ellis, Fell, Finney, Fanok, Green, Hall, Knight, Lamberton, Lear, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Newlin, Palmer, H. W., Parsons, Patterson, D. W., Patton, Porter, Pughe, Purviance, John N., Read, John R., Sharpe, Stewart, Struthers, Temple, Wetherill, John Price, Wherry, White, David N., White, J. W. F. Woodward and Wright—55.

Mr. BROOMALL. I move to go into committee of the whole for the purpose of striking out the section and inserting in lieu thereof the following:

"The Senate shall consist of not less than fifty members. Every county containing more than one-sixth of the population of the State, as ascertained by the last preceding United States census, shall elect eight members. The population of the residue of the State, divided by the remainder of the minimum number of Senators, shall constitute the ratio of representation for such residue. Every county thereof containing more than three-fifths of the ratio shall constitute a district, except as hereinafter provided. Counties of less population, where contiguous and sufficient, shall be made into districts, each containing less than a ratio and two fifths, and not less than three-fifths of a ratio. The remaining counties shall be severally incorporated with adjoining districts. Every district shall be entitled to one Senator, and an additional Senator for every full ratio of its population above three-fifths of a ratio. Counties shall be so united in forming districts, that there shall be in every case the smallest excess of population over that necessary for one, two or more Senators, as the case may be. No county shall be divided in forming districts unless entitled to two or more Senators."

Now, Mr. President, this is the proposition that was voted down at my instance, modified in the particulars which I will mention. There is probably some difficulty in forbidding the Legislature to divide Philadelphia or other large counties. I have therefore not prohibited them from dividing counties, but have put in the provision that I spoke of and the gentleman from Columbia is so in love with, that they shall not divide a county unless the same shall be entitled to two or more

Senators. That proposition, if gentlemen are in favor of controlling the Legislature in these things, will force them not to absolute equality of representation, but to a nearer equality of representation than can be had under this article.

If gentlemen are in favor of preventing gerrymandering, I ask them to look at this proposition and see if it does not do that. I labored some time to get a proposition that would answer that purpose and that covered all the ground, and I am satisfied that this one does. It does allow the Legislature to divide large counties, and therefore there may be in one or two instances in the State an opportunity for gerrymandering; but there can be none outside of that. If we allow them to divide counties, we must allow them some opportunity within that limit; but as far as possible I maintain that this proposition prevents gerrymandering.

I see the gentleman from Montgomery (Mr. Hunsicker) upon his feet to object that this would attach Delaware county to Montgomery. I am very sorry that the gentleman from Montgomery is so opposed to that union. I see nothing very hard in it. I know very well that Montgomery has had her full share whenever Delaware has been connected with her theretofore unless she failed to get it by means of some dissentions of her own. I can only tell him, as the bad oyster did the man who was eating it, that if we can stand it he ought to. If we can stand being connected with his county, he ought to make no objection. But you must do something to provide for the case not provided for at all in this article, and you must do something to provide for Delaware county other than what the committee propose to do.

One word more. My proposition does not necessarily attach us to Montgomery. It attaches us either to Montgomery or Chester. I prefer Chester and I have very little doubt that with a little exertion the Legislature might be got to make that disposition of Delaware.

Mr. HUNSICKER. Mr. President: This is about the tenth proposition that the gentleman from Delaware has offered to escape the very natural union of his county with a portion of Philadelphia county, and this is the same Joe Jingle all the time. He has painted it in a little different colors each time, but this last proposition is substantially the first proposition offered by the gentleman, only, as the gentleman from Allegheny

(Mr. Howard) suggests, a little worse. The gentleman from Delaware knows perfectly well, as well as anybody on this floor or elsewhere can know it, that the only effect of his substitute will be to attach Montgomery permanently to Delaware county, and when he twits the delegate from Columbia by saying, as Artemus Ward calls it, "sarkastically," that he had no political reasons for attaching Delaware to a portion of Philadelphia, I think it could be said with truth that if there is any political reason animating anybody, it is animating the gentleman from Delaware, who desires to swallow up Montgomery county by attaching it to little Delaware.

The fact is that the city of Philadelphia complains upon the floor of this House, and outside of this House, that the senatorial scheme ignores the idea of population, and that we cut her down to one-eighth of the Senators, although she would be entitled to more upon the basis of her population. We now rectify that seeming injustice by giving her a chance of participating in the election of a ninth member who is partially a Philadelphian.

I therefore trust that this boring—I believe that is a term adopted by this body, which was defined to be "to promote by constant iteration"—will cease, and that this Convention will vote on this article and either adopt or reject it.

The PRESIDENT. The question is on the motion of the delegate from Delaware (Mr. Broomall.)

Mr. BROOMALL. I ask for the yeas and nays on that proposition.

Mr. LILLY. I second the call.

The question being taken by yeas and nays, resulted as follow:

Y E A S.

Messrs. Broomall, Darlington, De France, Lilly, Littleton, MacVeagh, Mann, Niles, Runk and Walker, *President*—10.

N A Y S.

Messrs. Addicks, Alricks, Andrews, Bally, (Perry,) Baker, Barclay, Barr, Beebe, Biddle, Black, Bowman, Boyd, Buckalew, Calvin, Campbell, Carter, Cronmiller, Curry, Dallas, Dodd, Edwards, Fulton, Funck, Gilpin, Guthrie, Hanna, Harvey, Hay, Hazzard, Hemp-hill, Heverin, Howard, Hunsicker, Kaine, Landis, Lawrence, Long, MacConnell, M'Clean, Mantor, Minor, Mott, Newlin, Palmer, G. W., Patterson, T. H. B., Pur-

man, Purviance, Samuel A., Reed, Andrew, Reynolds, Ross, Russell, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Turrell, Van Reed, White, Harry, Worrell and Wright—60.

So the motion was not agreed to.

ABSENT.—Messrs. Achenbach, Alney, Armstrong, Baer, Bailey, (Huntingdon,) Hannan, Bardsley, Bartholomew, Bigler, Brodhead, Brown, Bullitt, Carey, Cassidy, Church, Clark, Cochran, Collins, Corbett, Corson, Craig, Curtin, Cuyler, Davis, Dunning, Elliott, Ellis, Ewing, Fell, Finney, Gibson, Green, Hall, Horton, Knight, Lambertson, Lear, M'Camant, M'Culloch, M'Michael, M'Murray, Metzger, Mitchell, Palmer, H. W., Parsons, Patterson, D. W., Patton, Porter, Pughe, Purviance, John N., Read, John R., Rooke, Sharpe, Simpson, Stewart, Struthers, Temple, Wetherill, J. M., Wetherill, John Price, Wherry, White, David N., White, J. W. F. and Woodward—63.

Mr. BROOMALL. I have a proposition now to make which I think ought to meet the approbation of the Convention. I will read it, and then I will send it up, in the meantime speaking to the article.

"The Senate shall be divided into sixty senatorial districts."

Then it follows the language of the article down to the obnoxious provision about Delaware county, which it strikes out, namely: "The county of Delaware may be united with adjoining wards of Philadelphia, to form a district." It strikes out the word "four," in the seventh line, and inserts the word "three," making it read, "three-fifths of a ratio." That will remedy the difficulty in this way: It will entitle Delaware county to a Senator, and it will also entitle a considerable number of other counties to a Senator that now come very near it. As was well said by the gentleman from Carbon, (Mr. Lilly,) requiring a county to have four-fifths of a ratio before it was elevated into a district, and then only requiring three-fifths to entitle it to an additional Senator afterwards, looks like a discrimination against the small counties, and I trust the delegates representing small counties here will bear that in mind when they are voting upon this proposition. It increases the number of Senators ten, but it still makes them less than one-third of the House, and it gets over a good many difficulties in the way of the report of the committee.

The PRESIDENT. The delegate from Delaware moves to go into committee of the whole for the purpose of making an amendment, which will be read.

The **CLERK** read as follows:

"The State shall be divided into sixty senatorial districts of compact and contiguous territory, as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio; but no county shall form a separate district unless it shall contain three-fifths of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough, or township shall be divided in the formation of a district."

Mr. HOWARD. I have no doubt the delegate from Delaware is intending to treat this Convention with perfect fairness. I have no doubt he has presented these several amendments in the order of their merit, commencing first with the one he thought best, the second best second, the third best third, the fourth best fourth, the fifth best fifth, the sixth best sixth, and so on. I think we have now got down to what he considers the poorest of the lot. I suppose they were presented in the order of merit, and he certainly would not commence with the worst one first. I therefore hope the Convention will adhere to and stand firmly by the idea of either supporting the committee or going back to the other plan of striking out all apportionment whatever. It seems to me there is no other plan by which this Convention can practically determine this question. The report of the committee is certainly a fair one. It seems to suit the Convention with one single exception, that Delaware is not exactly satisfied. I think the only safe course is to adhere to the idea first of supporting the committee, and if we will not support the committee as a whole, then go back to the other idea and leave the question of apportionment to the Legislature.

Mr. DARLINGTON. I do not wish to prolong this discussion, but merely to say that I shall be obliged to vote for the proposition of the gentleman from Delaware, and unless there be some change made I shall be obliged to vote against the report

of the committee, and if it is adhered to, I shall probably be obliged to vote against the whole Constitution.

Mr. President, if there is any one thing that after the fullest discussion received the repeated sanction of a majority of this body it was that the city of Philadelphia should be restricted in its representation in the Senate. After the strongest and most fervid appeals by gentlemen from Philadelphia and those who thought with them, answered by the ablest men of the body, the votes were again and again that Philadelphia should not have more than eight members of the Senate. Now, sir, this proposition to attach a portion of the city of Philadelphia to the county of Delaware for the purpose of making it a senatorial district necessarily entitles that portion of the city, occasionally, at all events, to a member of the Senate, and thus you will give by this device, at some time at all events, to the city of Philadelphia nine members of the Senate. This is not what the members of this Convention intended. It is not what they ought to do if there is any virtue at all in the restriction. We ought to adhere to it if it is right, and if it is not right we ought to abandon it *in toto*. Let us place no restriction upon the number of Senators to which Philadelphia is entitled, or let us firmly adhere to the doctrine which we have voted in again and again. If we are to permit this principle, if it be a principle, to be frittered away to suit the convenience of those who want to supply population to Delaware county and are willing to give her representation by herself, then I say you make your Constitution inconsistent with itself and somewhat discreditable to the body that sends it forth.

Mr. MANTON. I hope the House will indulge me for one moment in the discussion of sections sixteen and seventeen. I find some things in both these sections that I do not like, and in fact there have been many things suggested as revisions for this Constitution that I do not like; but we all expected this when we took this work in hand. I regard it a high order of statesmanship to accord honesty of purpose to all men under like circumstances. Now, sir, what I desire to say is this: Not expecting to get all my likes and preferences, I shall vote for the sections as they are reported here, and the article also. I hope that some member will very soon call the previous question, for it is apparent from the temper we see

manifested here, that some delegates will oppose the Constitution unless they can have just what they want. The threat has come from the honorable delegate from Delaware, (Mr. Broomall,) that after trying all he can to get his preference and ideas inserted here, he will have his way anyhow; he is bound to have it; on that he will not yield. And he gives us notice that he will, as a last resort, prefer to be joined to "Jersey." Well, I notice that the Convention does not *scare* well. [Laughter.] I suppose he will do as he says, oppose this Constitution, and also go to the land he designates, and as he goes, he will exclaim as that great man did who was about to leave Syracuse: "Oh! Delaware, I am at last forced to despair of thee; thou art the land of my birth; thou art my country still, and like a tried mother thou hast left the holiest claims of nature in my heart; I will sorrow for but not hate thee; but I cannot get in the revised Constitution of this State what I want; so good bye, I am bound for Jersey!" This intimidation of not supporting this instrument will not change any course of mine. The gentleman from Chester (Mr. Darlington) also tells us that we are to lose his support. If his likes are not inserted, he gives us to understand that he too will oppose the work. Now, sir, all I have to say is this: If gentlemen do not like what a majority of this Convention in their wisdom think proper to adopt here, they had better go home and commence their opposition at once, for this Constitution is to be submitted to the people for their approval, and they will surely approve.

The PRESIDENT. The question is on the motion of the delegate from Delaware (Mr. Broomall.)

Mr. BROOMALL. On that question I call for the yeas and nays.

Mr. DE FRANCE. I second the call.

Mr. NEWLIN. I call the previous question.

The PRESIDENT. The Clerk will call the names of delegates.

Mr. BROOMALL. Will the call for the previous question be withdrawn until I offer another amendment?

The PRESIDENT. The Clerk will proceed with the call.

Mr. HOWARD. The delegate from Delaware said he would withdraw his amendment.

The PRESIDENT. The Chair did not understand.

Mr. BROOMALL. I am afraid the ears of the gentleman from Allegheny are not as good as his voice.

Mr. HOWARD. Ah!

The PRESIDENT. The Clerk will proceed to call the names of delegates on the motion of the delegate from Delaware.

The yeas and nays were taken with the following result:

Y E A S.

Messrs. Beebe, Bowman, Broomall, Darlington, De France, Horton, Lilly, MacVeagh, Mann, Patton, Runk and Walker, *President*—12.

N A Y S.

Messrs. Achenbach, Addicks, Alricks, Andrews, Bally, (Perry,) Bailey, (Huntingdon,) Baker, Barclay, Barr, Biddle, Black, Boyd, Buckalew, Calvin, Campbell, Carey, Carter, Cochran, Corbett, Cronmiller, Curry, Dallas, Dodd, Edwards, Elliott, Ewing, Fulton, Funck, Gilpin, Guthrie, Hanna, Harvey, Hay, Hazzard, Hemphill, Heverin, Howard, Hunsicker, Kaine, Landis, Lawrence, Littleton, Long, MacConnell, M'Clean, M'Culloch, Mantor, Minor, Mott, Newlin, Palmer, G. W., Patterson, T. H. B., Purman, Purviance, Sam'l A., Reed, Andrew, Reynolds, Ross, Russell, Smith, H. G., Smith, Henry W., Smith, William H., Stanton, Turrell, Van Reed, Wetherill, J. M., White, Harry, Worrell and Wright—6.

So the motion was rejected.

ABSENT.—Messrs. Ainey, Armstrong, Baer, Bannan, Bardaley, Bartholomew, Bigler, Brodhead, Brown, Bullitt, Cassidy, Church, Clark, Collins, Corson, Craig, Curtin, Cuyler, Davis, Dunning, Ellis, Fell, Finney, Gibson, Green, Hall, Knight, Lamberton, Lear, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Niles, Palmer, H. W., Parsons, Patterson, D. W., Porter, Pughe, Purviance, John N., Read, John R., Rooke, Sharpe, Simpson, Stewart, Struthers, Temple, Wetherill, John Price, Wherry, White, David N., White, J. W. F. and Woodward—58.

Mr. STANTON. I think we have had sufficient votes on these amendments, and therefore I call for the previous question.

Mr. CAMPBELL. I rose for the same purpose. I second the call.

Mr. HARRY WHITE. I appeal to the delegate from Philadelphia to withdraw the call for the previous question till I offer an amendment.

MANY DELEGATES. No! No!

Mr. HARRY WHITE. I desire to offer the language of the old Constitution upon this point.

Mr. CAMPBELL. I renew the call, if it is withdrawn.

Mr. STANTON. I think the call had better remain.

The PRESIDENT. The previous question is called for. Is the call sustained? Those delegates who sustain the call will rise.

Messrs. Baker, Addicks, Howard, Calvin, Heverin, Barr, Andrew, Read, Newlin, Funck, Worrell, Boyd, Jos. Bally, Campbell, MacConnell, Horton, Andrews, Carter and W. H. Smith rose to second the call for the previous question.

The PRESIDENT. The call for the previous question is sustained. The question before the House is, shall the main question be now put?

Mr. BROOMALL. On that question I call for the yeas and nays.

Mr. DARLINGTON. I second the call.

The yeas and nays were taken and were as follow:

Y E A S.

Messrs. Achenbach, Addicks, Andrews, Bally, (Perry,) Baker, Barr, Beebe, Calvin, Campbell, Carey, Carter, Cochran, Cronmiller, Curry, Edwards, Funck, Guthrie, Harvey, Hazzard, Heverin, Horton, Howard, Hunsicker, Littleton, Long, MacConnell, MacVeagh, M'Clean, Mantor, Mott, Newlin, Patterson, T. H. B., Purman, Purviance, Sam'l A., Reed, Andrew, Reynolds, Russell, Smith, Wm. H., Stanton, Worrell and Wright—41.

N A Y S.

Messrs. Alricks, Bailey, (Huntingdon,) Black, Bowman, Boyd, Broomall, Buckalew, Corbett, Dallas, Darlington, De France, Ewing, Fulton, Gilpin, Hanna, Hay, Hemphill, Kaine, Lear, Lilly, M'Culloch, Mann, Patterson, D. W., Patton, Ross, Runk, Smith, Henry W., Turrell, Van Reed, Wetherill, J. M., White, Harry and Walker, *President*—32.

So it was ordered that the main question be now put.

ABSENT.—Messrs. Ainey, Armstrong, Baer, Bannan, Barclay, Bardaley, Bartholomew, Biddle, Bigler, Brodhead, Brown, Bullitt, Cassidy, Church, Clark, Collins, Corson, Craig, Curtin, Cuyler, Davis, Dodd, Dunning, Elliott, Ellis, Fell, Finney, Gibson, Green, Hall, Knight, Lamberton, Landis, Lawrence, M'Camant,

M'Michael, M'Murray, Metzger, Minor, Mitchell, Niles, Palmer, G. W., Palmer, H. W., Parsons, Porter, Pughe, Purviance, John N., Read, John R., Rooke, Sharpe, Simpson, Smith, H. G., Stewart, Struthers, Temple, Wetherill, Jno. Price, Wherry, White, David N., White, J. W. F., and Woodward—60.

The PRESIDENT. The question is on the article.

Mr. HARRY WHITE. I understand the question is on the section. ["On the article."] I did not understand at all that the seventeenth section was under consideration. It was not read by the Clerk, and it was not under consideration.

The PRESIDENT. The question is on the passage of the article.

Mr. WORRELL. On that let the yeas and nays be called.

Mr. MACVEAGH. One moment on the question of order. I understood, certainly, that the previous question was called upon the section. ["No." "No."] Then I move to reconsider the vote by which the main question was ordered.

Mr. ANDREW REED. I second that motion.

Mr. MACVEAGH. The gentleman from Mifflin and myself voted in the majority.

The PRESIDENT. I am not certain that such a motion can be made pending the previous question.

Mr. MACVEAGH. It is not an incidental motion.

Mr. LAWRENCE. Do I understand the President to say that the section has passed?

The PRESIDENT. The article is pending.

Mr. MACVEAGH. I understand that the report was a report only of sections and not of the article.

Mr. HARRY WHITE. I rise to a question of order; that the previous question having been sustained the pending question is the question before the body. The question before the body was the sixteenth section. ["No." "No."]

The PRESIDENT. The report of the committee was adopted by the Convention and we were amending it piece by piece. The question now is on the passage of the article, and the Chair hardly thinks that the motion to reconsider at this point is in order.

Mr. DARLINGTON. Allow me to suggest—

Mr. HARRY WHITE. I appeal from the decision of the Chair.

Mr. DARLINGTON. May I be allowed to ask a question? Did not the gentleman from Columbia under precisely similar circumstances move a reconsideration the other day and we carried it?

Mr. MACVEAGH. I trust a little reflection will satisfy the Chair that—

Mr. CAMPBELL. I rise to a point of order.

Mr. MACVEAGH. It is to a point of order that I am rising; that is, an appeal from this may not be necessary. Certainly the usage on this subject, whatever else it has been, has been uniform. A motion to reconsider has been entertained in every deliberative body, I venture to say, before the final passage of an article or bill.

Mr. CAMPBELL. I rise to a point of order.

Mr. BROOMALL. No business is in order pending the vote.

Mr. D. W. PATTERSON. The article was referred to a committee on third reading, and of course the question now is on the article.

The PRESIDENT. The Chair is going to decide as he thinks is right, without being dictated to or influenced by gentlemen thinking the Chair is going to decide improperly. The eighteenth rule reads:

"When a call for the previous question has been made and sustained, the question shall be upon the pending amendment and the main question in their regular order; and all incidental questions of order arising after a motion for the previous question has been made, shall be decided without debate."

The motion for the previous question has been made and sustained, and pending such motion, all questions must be decided without debate. The Chair will withdraw his prior suggestion and allow the motion for reconsideration to be made.

Mr. MACVEAGH. Then I make it and the gentleman from Mifflin (Mr. Andrew Reed) seconds it.

The PRESIDENT. It is moved to reconsider the vote by which the main question was ordered to be now put.

Mr. MACVEAGH. On that I call for the yeas and nays.

Mr. HARRY WHITE. I second the call. The yeas and nays were taken and resulted as follow:

YEAS.

Messrs. Alricks, Bailey, (Huntingdon,) Biddle, Bigler, Black, Carey, Dodd, Ew-

ing, Fulton, Funck, Gilpin, Lear, Mac-
Veagh, M'Culloch, Minor, Reed, An-
drew, Reynolds, Runk, Turrell, Van
Reed, Wetherill, J. M. and White, Harry
—22.

Y A S.

Messrs. Achenbach, Addicks, Andrews,
Baily, (Perry,) Baker, Barr, Beebe,
Bowman, Broomall, Buekalew, Calvin,
Campbell, Carter, Corbett, Curry, Dar-
lington, De France, Edwards, Elliott,
Gibson, Guthrie, Hanna, Harvey, Hay,
Hemphill, Horton, Howard, Hunsicker,
Lilly, Littleton, Long, MacConnell, M'-
Clean, Mann, Mantor, Mott, Newlin,
Niles, Palmer, G. W., Patterson, D. W.,
Patterson, T. H. B., Patton, Purman,
Purviance, Samuel A., Ross, Russell,
Smith, H. G., Smith, Henry W., Smith,
Wm. H., Stanton, Worrell, Wright and
Walker, *President*—53.

So the motion to reconsider was not
agreed to.

ABSENT.—Messrs. Ainey, Armstrong,
Baer, Bannan, Barclay, Bardsley, Bar-
tholomew, Boyd, Brodhead, Brown, Bul-
litt, Cassidy, Church, Clark, Cochran,
Collins, Corson, Craig, Cronmiller, Cur-
tin, Cuyler, Dallas, Davis, Dunring,
Ellis, Fell, Finney, Green, Hall, Haz-
zard, Heverin, Kaine, Knight, Lamber-
ton, Landis, Lawrence, M'Camant, M'-
Michael, M'Murray, Metzger, Mitchell,
Palmer, H. W., Parsons, Porter, Pugh,
Purviance, John N., Read, John R.,
Rooke, Sharpe, Simpson, Stewart, Struth-
ers, Temple, Wetherill, John Price,
Wherry, White, David N., White, J. W.
F. and Woodward—58.

THE PRESIDENT. The question now is
on the passage of the article.

MR. H. W. SMITH. On that question I
call for the yeas and nays.

MR. BRODHEAD. I second the call.

MR. EDWARDS. I ask that the six-
teenth section be read as it is amended.

The **CLERK** read as follows :

"SECTION 16. The State shall be di-
vided into fifty senatorial districts of com-
pact and contiguous territory as nearly
equal in population as may be, and each
district shall be entitled to elect one Sen-
ator. Each county containing one or
more ratios of population shall be enti-
tled to one Senator for each ratio and to
an additional Senator for a surplus of pop-
ulation exceeding three-fifths of a ratio ;
but no county shall form a separate dis-
trict unless it shall contain four-fifths of a

ratio ; and no county shall be divided un-
less entitled to two or more Senators.
The county of Delaware may be united
with adjoining wards of Philadelphia to
form a district. No city or county shall
be entitled to separate representation ex-
ceeding one-sixth of the whole number
of Senators. No word, borough or town-
ship shall be divided in the formation of
a district."

MR. HARRY WHITE. I call for the
reading of the next section.

The **CLERK** read as follows :

SECTION 17. The members of the House
of Representatives shall be apportioned
among the several counties, on a ratio ob-
tained by dividing the population of the
State as ascertained by the most recent
United States census by two hundred.
Every county containing less than five
ratios shall have one representative for
every full ratio, and an additional repre-
sentative when the surplus exceeds half
a ratio ; but each county shall have at
least one representative. Every county
containing five ratios or more shall have
one representative for every full ratio.
Every city containing a population equal
to a ratio shall elect separately its propor-
tion of the representatives allotted to the
county in which it is located. Every city
entitled to more than four representatives
and every county having over one hun-
dred thousand inhabitants shall be di-
vided into districts of compact and con-
tiguous territory, each district to elect its
proportion of representatives according
to its population, but no district shall
elect more than four representatives.

THE PRESIDENT. The question is on
the passage of the article, on which ques-
tion the yeas and nays have been or-
dered.

The yeas and nays were taken and
were as follow :

Y E A S.

Messrs. Achenbach, Addicks, Alricks,
Andrews, Armstrong, Baer, Baily, (Per-
ry,) Bailey, (Huntingdon,) Baker, Barr,
Beebe, Bigler, Bowman, Boyd, Brodhead,
Buckalew, Calvin, Carter, Curry, Dallas,
De France, Edwards, Elliott, Ewing,
Gibson, Guthrie, Hanna, Harvey, Hay,
Hazzard, Hemphill, Horton, Howard,
Hunsicker, Kaine, Landis, Lawrence,
Littleton, Long, MacConnell, Mann, Man-
tor, Mott, Newlin, Niles, Palmer, G. W.,
Patterson, D. W., Patterson, T. H. B.,
Patton, Purman, Purviance, Sam'l A.,
Ross, Russell, Smith, H. G., Smith, Wm.

H., Stanton, Turrell, Van Reed, White Harry, Worrell and Wright—60.

N A Y S.

Messrs. Biddle, Black, Broomall, Campbell, Cochran, Corbett, Darlington, Dodd, Fulton, Funck, Gilpin, Lear, Lilly, MacVeagh, M'Clean, M'Culloch, Minor, Reed, Andrew, Reynolds, Runk, Smith, Henry W., Wetherill, J. M. and Walker, *President*—23.

So the article was passed.

ABSENT.—Messrs. Alney, Bannan, Barclay, Bardsley, Bartholomew, Brown, Bullitt, Carey, Cassidy, Church, Clark, Collins, Corson, Craig, Cronmiller, Curtin, Cuyler, Davis, Dunning, Ellis, Fell, Finney, Green, Hall, Heverin, Knight, Lamberton, M'Camant, M'Michael, M'Murray, Metzger, Mitchell, Palmer, H. W., Parsons, Porter, Pughe, Purviance, John N., Read, John R., Rooke, Sharpe, Simpson, Stewart, Struthers, Temple, Wetherill, Jno. Price, Wherry, White, David N., White, J. W. F. and Woodward—50.

Mr. MANN. For the purpose of disposing of this article finally, I move to reconsider the vote just taken.

Mr. HUNSICKER. I second that motion, with the understanding that I am going to vote against the reconsideration.

The PRESIDENT. The question is on the motion to reconsider the vote just taken on the passage of the article.

Mr. BROOMALL. Is that debatable? ["No." "No."]

The PRESIDENT. The motion is not debatable. The question is on the motion to reconsider.

The motion was not agreed to.

Mr. BUCKALEW. I desire to correct an error of grammar. In the sixth line of the last section of this article I propose to strike out the word "exceeds" and insert the words "shall exceed."

Mr. BROOMALL. I object.

Mr. BUCKALEW. As a matter of course the Committee on Revision will report that change, but we do not want the trouble of going into these small reports. If the gentleman objects I will reserve it.

The PRESIDENT. Objection is made.

IMPEACHMENT AND REMOVAL FROM OFFICE.

Mr. BUCKALEW. I now move that the Convention proceed to consider on third reading the article on impeachment and removal from office, which was reconsidered.

The motion was agreed to.

Mr. BUCKALEW. I offered an amendment to the article, which is the pending question. I ask that it be read.

The CLERK read the amendment, which was to strike out the fourth, fifth, sixth, seventh, eighth and ninth lines of the fourth section, and to insert in lieu thereof the following:

"Removals from office of civil officers holding for fixed terms, may be made by the Governor upon conviction in courts of competent jurisdiction for removable offences, and the Governor may also remove such officers for reasonable cause upon address of two-thirds of the Senate, after due notice to and full hearing of officers to be removed; but the Governor, Lieutenant Governor and judges of the Supreme Court shall be removable only by the Senate upon conviction or impeachment, and other judges required to be learned in the law, only in the same manner or upon address to the Governor of two-thirds of each House of the General Assembly."

"Additional provision may be made by law for the removal of municipal or local officers, below the grade of city or county officers, for misconduct in office or the commission of any infamous crime."

Mr. BUCKALEW. If it is necessary I will explain this amendment, but if the Convention is ready to vote upon it I will not occupy their time.

I have incorporated in this proposition two clauses that are scattered in other parts of the Constitution, and then I have retained the provision in the present Constitution of the State with regard to the removability of officers holding for fixed terms. Section nine, of article six of the old Constitution, reads as follows:

"All officers for a term of years shall hold their offices for the terms respectively specified, only on the condition that they so long behave themselves well; and shall be removed on conviction of misbehavior in office, or of any infamous crime."

My amendment retains that provision substantially as to all officers holding for fixed terms. It also provides for an omission. The Constitution framed by us, as it now stands, makes no provision for the removal of associate judges. One section carefully provides for the removal of all judges learned in the law on the address of two-thirds of each House of the Legislature, and this section as it stands, without my amendment, provides for the removal of subordinate officers,

except those of courts of record; so that associate judges fall between the two provisions, and there is no provision made for their removal, except the general power of impeachment by the Senate.

We have provided in the article on the executive department for the appointment of a Superintendent of Public Instruction for four years. He is to be appointed by the Governor and two-thirds of the Senate; and yet this section, without my amendment, would authorize the Governor to turn him out of office at any time without cause. That certainly was not the intention of the Convention. That would result, if the views of gentlemen with reference to this provision which they have in the present article are correct, that the Governor is the appointing power referred to in it, and would have this power of removal.

One additional remark and I am done.

In the government of the United States the power of removal by the President alone was inferred early in the history of the government from the mere fact that he had the power of appointment, and that was the construction of the Constitution down until 1867, I think it was, when the tenure of office law was passed, and that construction of the Federal Constitution was over-ruled by Congress, and it stands over-ruled now. The tenure of office law passed by Congress is based upon this construction of the Constitution, that the appointing power has been lodged in the President and Senate jointly by virtue of that provision which requires senatorial assent, and consequently that the power of removal must be exercised by both jointly. That is the established construction of the Constitution of the United States, which I and others resisted, but which is the law of the Union. Now, upon that construction it would follow that no officer appointed by the Governor with the consent of the Senate of this State could be removed except by the Governor with the consent of the Senate. That whole question is settled by my amendment. It provides carefully for the cases in which this power of removal shall be exercised. It excludes all questions such as I have stated. It allows officers holding for a fixed term, as most of them do, to hold during that term upon the condition that they shall behave themselves well and shall not commit any infamous crime, which is the tenor of the old Constitution and ought to be retained.

I believe this is all I care to say on the subject.

Mr. HARRY WHITE. I would remind the Convention that when the clause sought to be stricken out by the amendment of the gentleman from Columbia was inserted it was after full discussion and due deliberation by the Convention. The words sought to be erased are to be found on the second page of the printed article, and are:

"Appointed officers, other than judges of the courts of record, may be removed at the pleasure of the power by which they are appointed; all officers elected by the people, except Governor, Lieutenant Governor, members of the General Assembly and judges of the courts of record, shall be removed by the Governor for reasonable cause after due notice and full hearing, on the address of two-thirds of the Senate."

This is a wise provision, and is in entire harmony with the practice of the government, from its earliest foundation. I remember very well the famous controversy which arose when Franklin Pierce was President of the United States, between the Hards and the Softs in the State of New York. I remember the exercise of this power of removal by his excellency, the President of the United States, in the case of Greene C. Bronson, who was collector of the port of New York. There was some controversy about it, but from that day to this it has been, indeed prior to that day it had been, the accepted doctrine that all appointed officers can be removed by the appointing power. This question was presented to this Convention once before, was fully considered and sanctioned by it. Of course the civil tenure of office law, about which there was so much complaint, was passed in recognition of this power. It was passed to cripple the hands of the then President of the United States, Andrew Johnson. There was some complaint about it then, but the exercise of the discretionary power to remove by the same power that appointed, I think, is wise, and has been found so in our experience of government.

Practically, how can this affect us? No judge of the courts, no elective officer, no creature of the people, clothed with the authority of the people, can be removed by the appointing power. The only parties who are likely to be affected are, for instance, prothonotaries and some officers who are appointed in different counties for a limited period, the office of Secreta-

ry of the Commonwealth, the Deputy Secretary of the Commonwealth, the chief clerks of the respective departments of the government, and then some statutory officers that are created from time to time. The flour inspector of the city of Philadelphia is appointed for a limited period; the harbor-master of the city of Philadelphia, and one or two others who receive commissions for a period of three years, are embraced in this class. Then again, very recently, we have passed a statute providing for the ventilation and the inspection of the mines of the Commonwealth. The inspectors of mines are appointed by the Governor for the period of three years. These are the only classes of officers who are likely to be reached by the provision as found in the section. I submit if you change the rules as now understood, if you evade the uniform practice of the government in this regard, I think you will make a change which is not a reform.

Imagine for a moment one of these inspectors of mines neglecting his duty in the county of Schuylkill or Luzerne. He is discovered to be venal, or discovered to be unfit for his duty. He cannot be removed, if you insert this provision, until he is tried and convicted. He may be admitted to bail and inflict immeasurable injury before you can remove him. In this matter of removal, you must trust to an enlightened public sentiment. No Executive, I apprehend, will exercise a delicate and summary power of this kind when he is not clearly sustained by public sentiment. If he does, of course the recoil will be in favor of the party who is persecuted and oppressed.

I trust, then, that we shall not change the policy which we have adopted heretofore in this regard as to removals from office, but will refuse to insert the amendment which has been proposed.

Mr. BUCKALEW. Before the gentleman from Indiana sits down, will he permit me to ask him a question?

Mr. HARRY WHITE. With pleasure.

Mr. BUCKALEW. Would you want the Governor to turn out of office the Superintendent of Common Schools whenever he pleased?

Mr. HARRY WHITE. I would not change the rule of the Commonwealth in that regard. I would trust all such questions to public sentiment.

Mr. BIDDLE. There may be a little propriety, Mr. President, in my saying a few words on this amendment, as I was the

chairman of the committee that reported the article. I say, however, in advance, that I have not the slightest pride of opinion upon the subject, and if I thought the amendment was an improvement, I would cheerfully go for it; but except in one slight particular, which if the amendment is voted down can be put in by unanimous consent, I think the amendment is of no importance at all.

The object of this article was to reach two classes of officers, appointed officers and elected officers. As it has been stated, perhaps a dozen times on this floor in the debate that was previously had upon this subject, there are a thousand cases of incompetency which do not reach the dignity of actual crimes, and yet this incompetency for the purposes of the public makes the officer who is incompetent quite as useless, and indeed more useless, than if he were guilty of a misdemeanor. He might become utterly useless, which includes many things that will suggest themselves to the members of the Convention, without being actually a criminal.

I agree strongly with the gentleman from Indiana that it would be to the last degree disastrous to the interests of the State to incorporate this amendment. Take, for instance, the case of an inspector of mines to which he has alluded. Before the public could proceed against that officer, and before he could be removed for an offence upon conviction, he might inflict upon the public an irremediable injury. I want a speedy mode of reaching this difficulty. I want a supreme depository of this power of removal within the man or men—cases of both may arise occasionally—who have appointed to office the persons desired to be removed. I cannot conceive that there is the slightest danger of trusting the power of removal, in the case of appointed officers, with the appointing power.

Allow me to meet, for a moment, as I think I can, the argument that was drawn from the Constitution of the United States. I do not believe in what is called legislative construction. We all know why the act of Congress to which the gentleman from Indiana has alluded was passed. That gentleman has given very clearly its history. It was intended to strike at an Executive who had not the confidence of the majority of Congress, but I call that no exposition entitled to respect here. It

was the action of a partisan majority of Congress. It is not a judicial interpretation, and I think that upon that subject the gentleman from Columbia himself would agree with me in saying that that legislative exposition is contrary to the genius of our Constitution. I have no fear that we shall ever reach such an exposition in this State, and I am, therefore, for retaining the article as it now stands; but as the gentleman from Columbia has pointed out a *casus omisus*, if this amendment is voted down, I will try to reach that in another mode. It is true that this article does not reach the case of associate judges not learned in the law; and if this amendment is voted down, I will ask the Convention to go into committee of the whole for the purpose of introducing in the seventh line of the section as it is printed here before us, the words "learned in the law" after the word "record," which would give us all the advantages which he seems to think valuable in regard to the *casus omisus*. I do hope we shall stand by the article, and adhere to what we have heretofore done, that we may enable the people of this Commonwealth for all coming time to avoid all this dreadful machinery which is always interposed between the people and allow the appointing power to remove from office incompetent or dishonest persons whenever occasion may require.

I hope the amendment will be voted down.

The PRESIDENT. The question is upon agreeing to the motion of the gentleman from Columbia.

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

Mr. BIDDLE. I ask the Convention to go into committee of the whole for the purpose of amending the last paragraph of the fourth section of this article by introducing in the seventh printed line after the word "record" the words, "learned in the law," so that it will read:

"Appointed officers other than judges of the courts of record, may be removed at the pleasure of the power by which they are appointed; all officers elected by the people, except Governor, Lieutenant Governor, members of the General Assembly and judges of the courts of record learned in the law shall be removed by the Governor for reasonable cause, after due no-

tice and full hearing, on the address of two-thirds of the Senate."

That will cover the case of associate judges.

Mr. LAWRENCE. I suppose that could be done by common consent. It is not necessary to go into committee of the whole.

Mr. BIDDLE. Well, I ask unanimous consent if it be acceptable to the Convention.

The PRESIDENT. The gentleman from Philadelphia asks unanimous consent to make an amendment. Shall he have leave?

Unanimous consent was given, and the amendment was made.

Mr. LITTLETON. I ask how that will cover the objection of the gentleman from Columbia?

Mr. MACCONNELL. Let the clause be read.

Mr. BIDDLE. It covers the *casus omisus*. Without the introduction of these words, "learned in the law," there was no way by which associate judges not learned in the law could be reached. By introducing these words the clause will read thus:

"Appointed officers other than judges of the courts of record, may be removed at the pleasure of the power by which they are appointed; all officers elected by the people, except Governor, Lieutenant Governor, members of the General Assembly, and judges of the courts of record, learned in the law, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate."

This, of course, will include associate judges not learned in the law. I think the gentleman from Columbia will agree with me that it is better.

Mr. DARLINGTON. I move that the Convention resolve itself into committee of the whole to strike out the words, in the sixth line, "elected by the people." I am not, for one, willing to permit the Governor to remove at his pleasure officers elected by the people.

Mr. BIDDLE. The gentleman misunderstands the section; it does not permit that.

Mr. DARLINGTON. Upon the address of two-thirds of the Senate.

Mr. BIDDLE. This is another thing entirely.

Mr. DARLINGTON. If elected officers are to be removed at all, it ought to be on the address of two-thirds of each House, not of the Senate alone. This

power conferred upon the Senate by this Constitution has never before been entrusted to that body, in this State at all events; and I do not know that it was ever entrusted to them anywhere else. I am opposed to allowing the Governor, even on the address of two-thirds of the Senate, to remove an elected officer. Take your prothonotaries, registers and recorders, or any of your county officers; take your Auditor General, if you please; take your State Treasurer; why should you subject them to removal on the address of two-thirds of a single branch of the Legislature?

If you allow the Governor to remove any of these officers in this way, you could not place them under a harrow that would be worse than that. I hope the amendment will be made.

The PRESIDENT. The question is upon agreeing to the motion of the gentleman from Chester.

The motion was rejected.

Mr. BUCKALEW. I move an amendment which I think important. I move to insert in the fourth line, on the top of

the page, after the word "record," the words "and the Superintendent of Public Instruction." I think the section ought to read:

"Appointed officers, other than judges of the courts of record, and the Superintendent of Public Instruction, may be removed at the pleasure of the power by which they are appointed."

Mr. BIDDLE. I have no objection to that, but I want the section retained.

The PRESIDENT. Does the gentleman from Columbia ask unanimous consent to make that amendment?

Mr. BUCKALEW. Yes, sir.

The PRESIDENT. Shall unanimous consent be given?

Unanimous consent was given and the amendment made.

The PRESIDENT. The question is now on the passage of the article.

The article was passed.

The PRESIDENT. The hour of three o'clock having arrived, the Convention stands adjourned until to-morrow morning at half-past nine o'clock.

ONE HUNDRED AND SIXTY-NINTH DAY.

TUESDAY, October 21, 1873.

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

Prayer by Rev. P. H. Mowry, of Chester, Pa.

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

EVENING SESSIONS.

Mr. EWING. I call up the resolution I offered yesterday in regard to evening sessions.

The PRESIDENT. The delegate from Allegheny calls up the resolution offered by him yesterday. It will be read.

The CLERK read as follows:

Resolved, That on and after Wednesday, the 22d Inst., the Convention will hold evening sessions, commencing at seven o'clock and closing at nine o'clock.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, and the yeas were twenty-eight.

Mr. COCHRAN and Mr. PURMAN called for the yeas and nays, and they were taken with the following result:

Y E A S .

Messrs. Achenbach, Alricks, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Black, Bowman, Calvin, Campbell, Carter, Cochran, Cronmiller, Curry, Dallas, De France, Edwards, Ewing, Fulton, Funck, Hay, Hazzard, Horton, Hunsicker, Knight, Lawrence, Long, MacConnell, Mantor, Patterson, T. H. B., Purman, Purviance, John N., Purviance, Samuel A., Rooke, Russell, Smith, William H., Van Reed, White, David N., White, Harry and Wright—39.

N A Y S .

Messrs. Andrews, Armstrong, Baker, Barr, Beebe, Biddle, Bigler, Brodhead, Broomall, Clark, Corbett, Corson, Curtin, Darlington, Davis, Dodd, Dunning, Ellis, Gibson, Gilpin, Guthrie, Harvey, Hemp-hill, Howard, Kaine, Lear, Lilly, MacVeagh, M'Clean, M'Culloch, M'Michael, Mann, Minor, Mott, Palmer, G. W., Parsons, Patterson, D. W., Patton, Porter,

Pughe, Reed, Andrew, Reynolds, Ross, Smith, Henry W., Stanton, Turrell, Wetherill, J. M. and Walker, *President*—48.

So the resolution was not ordered to a second reading.

ABSENT.—Messrs. Addicks, Ainey, Bannan, Barclay, Bardaley, Bartholemew, Boyd, Brown, Buckalew, Bullitt, Carey, Cassidy, Church, Collins, Craig, Cuyler, Elliott, Fell, Finney, Green, Hall, Hanna, Heverin, Lamberton, Landis, Littleton, M'Camant, M'Murray, Metzger, Mitchell, Newlin, Niles, Palmer, H. W., Read, John R., Runk, Sharpe, Simpson, Smith, H. G., Stewart, Struthers, Temple, Wetherill, John Price, Wherry, White, J. W. F., Woodward and Worrell—46.

ADDRESS TO THE PEOPLE.

Mr. HARRY WHITE offered the following resolution, which was read:

Resolved, That a committee of one from each senatorial district be appointed to present the result of the labors of this Convention to the people of the State by issuing an address to accompany the new Constitution and the use of such other means as may be necessary to secure a proper consideration of the same by the voters of the Commonwealth, and report to the Convention as early as practicable.

On the question of ordering the resolution to a second reading, the yeas and nays were required by Mr. Howard and Mr. Carter, and were as follow, viz:

Y E A S .

Messrs. Andrews, Armstrong, Bailey, (Huntingdon,) Beebe, Bigler, Black, Bowman, Brodhead, Brown, Calvin, Campbell, Carey, Carter, Corson, Curry, Cuyler, Davis, De France, Edwards, Fulton, Funck, Gibson, Hay, Hazzard, Kaine, Knight, Lamberton, Lawrence, Lilly, Long, MacVeagh, M'Culloch, Mann, Mantor, Minor, Parsons, Patterson, D. W., Patterson, T. H. B., Pughe, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Russell, Turrell, Wetherill, J. M., White, Harry and Walker, *President*—47.

N A Y S.

Messrs. Achenbaeh, Alricks, Baer, Bally, (Perry,) Baker, Barclay, Barr, Biddle, Boyd, Buckalew, Clark, Corbett, Curtin, Dallas, Darlington, Dodd, Dunning, Elliott, Ellis, Ewing, Gilpin, Hanna, Harvey, Hemphill, Horton, Howard, Hunsicker, Lear, MacConnell, M'Clean, M'Michael, Mott, Newlin, Palmer, G. W., Patton, Ross, Smith, Henry W., Smith, William H., Stanton, Van Reed, White, David N. and Worrell

-42.

So the resolution was ordered to a second reading, and it was read the second time and considered.

ABSENT. — Messrs. Addicks, Ainey, Bannan, Bardsley, Bartholomew, Broomall, Bullitt, Cassidy, Church, Cochran, Collins, Craig, Cronmiller, Fell, Finney, Green, Guthrie, Hall, Heverin, Landis, Littleton, M'Camant, M'Murray, Metzger, Mitchell, Niles, Palmer, H. W., Porter, Purman, Read, John R., Reynolds, Rooke, Runk, Sharpe, Simpson, Smith, H. G., Stewart, Struthers, Temple, Wetherill, John Price, Wherry, White, J. W. F., Woodward and Wright

-44.

Mr. HARRY WHITE. So that this resolution may be understood I have a word of explanation. Its object is to secure the appointment of a committee to present an address to the people exhibiting in brief form the results of the labors of this Convention. The form and style of the address will be, I apprehend, to take up the executive article and in a brief manner explain the changes there made; then to consider the legislative article, the Bill of Rights and all the other articles *seriatim*. This will require a brief address, of perhaps a column and a half in length, explaining to the people the character of the changes proposed by this Convention. This may be printed in the form of a circular, and it will save delegates an immense amount of individual explanation. That is the object of this resolution. This course was pursued by the Illinois Convention, and pursued with great success.

Mr. LILLY. I suppose that some plan of this kind will necessarily have to be adopted. But I am not prepared to vote for the adoption of this resolution at the present time and in its present shape. I apprehend that the mode of submitting the Constitution to the people for their

necessary action thereon, will be reported to the Convention from a committee that has that subject in charge. This resolution offered by the gentleman from Indiana seems to forestall the action of the Convention, and I am not prepared to vote for it.

Mr. DARLINGTON. I submit that this is a very unnecessary movement, if it is not in bad taste. Our work, when completed, whether it shall be adopted or not by the people, ought to be self-evident to everybody without any persuasion on our part. It may be that we shall be asked by our constituents to give our views at a public meeting, a thing to which I am not at all accustomed; and if such a question were addressed to me I should speak freely of those parts of the Constitution of which I approved and with equal freedom as to any of those parts which I did not approve. I am utterly opposed, however, to this Convention, as a body, issuing an address to persuade the people of the Commonwealth to adopt our work. Let it go to them unprejudiced by anything we may say. Let the work speak for itself, and let it commend itself to the people, not our address.

Mr. CURTIN. The hour we adjourn, when our labors are completed, I will most heartily agree to a resolution to resolve ourselves into a body of citizens to address the people of Pennsylvania upon the subject of the adoption of our amended Constitution, thus separating the members of this body officially from their action as citizens of the State; but I do think any action on this subject now, in advance of the action of this Convention, is, as my friend from Chester (Mr. Darlington) has put it, in bad taste. I do not know that anybody is opposed to the work of this Convention, and it is no high compliment to the people of the State to say that an explanation of our work is necessary in order that they should understand it. There are men outside of this Convention who understand the work of this body just as well as those inside, and they have given it full consideration during its passage through the body; and if we wait until the work is over for which we are here officially, and for which we are paid, and when that work and that pay are over we resolve ourselves into a body of citizens of the State, having full knowledge of the action of this Convention, being a part of it, I will unite with great pleasure in an address to the people of the State, and

sign any address the learned and intelligent gentleman from Indiana may write.

Mr. DALLAS. Mr. President: I think there has been enough said to show that it is premature to consider this matter now. I move that the further consideration of the resolution be postponed for the present.

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

Mr. HARRY WHITE. I hope that will not be done.

Mr. DALLAS. It is not debatable.

Mr. HARRY WHITE. Very well, I move to make it indefinite for the purpose of discussing it.

Mr. President, I have but one observation to make. I am not devoted to the manner of the appointment of this committee. I will waive the parliamentary courtesy as to being chairman of it. I do not want the jealousy of any individual to influence his action on this resolution. I want something of this kind passed as a friend of the new Constitution. I do submit that if you publish your Constitution in gross and spread it broadcast over this Commonwealth, all the voters of the Commonwealth will not and cannot understand it. The whole object of this committee is to get up an address, briefly reciting and explaining what the Convention has adopted, and the object of appointing this committee now is that they may have two or three days or a week's time to prepare an address and submit it to this Convention; and if this Convention does not endorse that address, of course the address will not go out.

All our articles are through except the article on railroads and the schedule, and it is time for the committee to go to work if they are to report any action for this Convention. Now, as to resolving the whole Convention into committee of the whole or a committee of vigilance to carry on the campaign for this Constitution, that is all very nice, but it is impracticable to rely upon that alone, and I submit that we must have something of the kind to advance the labors of this Convention. If we do not it may probably fall still-born in many parts of the Commonwealth.

Mr. HOWARD. Mr. President: I am opposed to the consideration of this resolution at this time, and I am opposed to the form of the resolution. In the first place I believe that the subject to which this resolution relates is a very proper

one. I do not at all agree with the remarks of the gentleman from Centre, that this Constitution will need no explanation to the people of this Commonwealth. We know very well that it does need explanation. It has needed a great deal in order to be understood by the intelligent delegates in this Convention, and perhaps some do not understand all its provisions now.

But, Mr. President, I believe that this subject should be considered after the work of the Convention has been completed. Then I should be in favor of the delegates organizing themselves into senatorial districts, the delegates at large and the local delegates—let them all form a delegation in the senatorial districts that they represent, and let that delegation select the man from each district who is to go upon that committee. In that way we shall get a fair representation of the sentiments of the Convention, and I have no doubt we shall get a good committee. I would favor that mode. It is the fair mode, and I believe it is the mode which will commend itself to the consideration of this Convention; but we ought not to consider the subject until our work is done. It should be just about the last thing we should do. I believe that is the fair mode and that each delegate will be satisfied with that mode of choosing this committee.

I move that the further consideration of this subject be postponed for the present.

Mr. DALLAS. That is the motion now. We have other business before us, and I hope that motion will prevail.

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

Mr. HARRY WHITE. I made the motion to indefinitely postpone. I withdrew that motion in order that the vote may be taken on the other motion.

The PRESIDENT. The motion to indefinitely postpone is withdrawn.

Mr. DALLAS. My motion is to postpone for the present.

The PRESIDENT. The question is on the motion of the delegate from Philadelphia (Mr. Dallas.)

The motion was agreed to.

SUBMISSION OF THE CONSTITUTION.

Mr. BEEBE. I offer the following resolution:

Resolved, That it is the sense of this Convention that the Committee on Schedule be instructed to report a submission of the new Constitution to a popular vote

as early as possible, and before the first day of January next; and that an election to fill the new offices created thereby be held at the same time.

I merely ask that it be referred to the Committee on Schedule for the consideration of that committee and of the members.

The PRESIDENT. The resolution is not yet before the body and cannot be referred. The question is on proceeding to the second reading and consideration of the resolution.

The question was determined in the affirmative, and the resolution was read the second time.

Mr. BEEBE. All I ask is that this resolution be referred to the Committee on Schedule for the attention of the members of that committee.

Mr. CORBETT. The subject to which that resolution refers is before the Committee on Election, Suffrage and Representation. They are, I believe, maturing an ordinance for the submission of the Constitution to the people.

The PRESIDENT. The question is on the motion to refer the resolution to the Committee on Schedule.

The motion was agreed to.

RAILROADS AND CANALS.

The PRESIDENT. Reports of committees are now in order.

Mr. CORBETT. I present the report of the select committee, to whom was referred the railroad article.

The PRESIDENT. The report will be read.

The CLERK. The committee report that they have amended the article so as to make it read as follows:

SECTION 1. All railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right, subject to such regulations as are or shall be prescribed by law, to construct and operate a railroad within this State, and to connect at the State line with railroads of other States.

SECTION 2. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad, and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

SECTION 3. All individuals, associations and corporations shall have equal right to have persons and property transported

over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State or coming from or going to any other State. Persons and property transported over any railroad, shall be delivered at intermediate stations within the State at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station. But excursion and commutation tickets may be issued at special rates.

SECTION 4. No discrimination between transportation companies or parties engaged in the business of transportation shall be made, either by abatement, drawback or otherwise, and no railroad or canal company, nor any lessee or manager thereof, shall make any preferences in furnishing cars or motive power.

SECTION 5. No railroad company shall directly or indirectly consolidate with or hold a controlling interest in the stock or bonds of any other railroad corporation owning, operating or controlling a competing line of railroad, and the question of such competition shall, when demanded by the party complainant, be tried by jury.

SECTION 6. Every railroad or canal corporation organized in this State shall maintain an office therein, where transfers of its stock shall be made, and where its books shall be kept.

SECTION 7. No president, director, officer, agent or employee of any railroad or canal company shall be interested, directly or indirectly, otherwise than as a stockholder in such railroad or canal company, in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or operated by such company.

SECTION 8. Railroad and canal companies shall not engage in any other business than that of common carriers, except in such manufactures and productions as are necessary to the equipment, maintenance and operation of their works, nor shall they hold lands, freehold or leasehold, except such as are necessary for the same purposes. But mining and manufacturing companies may construct and operate railroads not exceeding thirty miles in length.

SECTION 9. No street passenger railway shall be constructed within the limits of any city or borough without the consent of the local government.

SECTION 10. No railroad, canal or other transportation company, in existence at the time of the adoption of this article, shall have the benefit of any future legislation by general or special laws, except on condition of express acceptance of the provisions of this article.

SECTION 11. The Legislature shall, by general law of uniform operation, provide reasonable regulations to give full effect to this article.

The committee also recommend that the following section be inserted in the schedule:

SECTION —. The existing powers and duties of the Auditor General in regard to railroads, canals and other transportation companies, except as to their accounts, are hereby transferred to the Secretary of Internal Affairs, who shall have a general supervision over them, subject to such regulations and alterations as shall be provided by law; and in addition to the annual reports now required to be made, said Secretary may require special reports at any time upon any subject relating to the business of said companies from any officer or officers thereof.

They also recommend the following section to be added to the article on Corporations:

SECTION —. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

Mr. STANTON. I move that the Convention resolve itself into committee of the whole for the purpose of considering this report.

Mr. HOWARD. I rise to a question of privilege. I ask first for the reading of the heading of this report. I want to understand what the committee report to the Convention.

The CLERK read as follows:

"Mr. Corbett, from the select committee to whom was referred the article on railroads and canals, begs leave to submit the following report: That they have amended the article so as to make it read as follows:"

Mr. HOWARD. The committee report that they have amended the article. My question to the Chair is this: Is not the article the matter that is before the Convention? The question is whether the Convention will accept these amendments, but the article is still before the Convention. Does this supersede the ar-

title? They report theirs as amendments.

The **PRESIDENT.** The Chair is of opinion that the committee who made the report struck out the original article and made this the article. The article as thus amended is now before the Convention.

Mr. STANTON. Then, if I understand your decision, this article is now on third reading.

The **PRESIDENT.** I hold that the article cannot be other than on third reading.

COUNTY OFFICERS.

Mr. HUNSICKER. I rise to make a privileged motion. This is the last day for the reconsideration of article number fourteen, on county officers. Section five of that article, it has been discovered, will not work at all. That section reads as follows:

"All county officers shall be paid by salaries to be prescribed by law, and all fees attached to any county office shall be received by the proper officer for and on account of the State or county as may be required by law." Now, here comes the point:

"The annual salary of such officer and his clerks shall not exceed the yearly amount of fees collected by him."

How can you tell about the fees of a sheriff or about the fees of a county commissioner or a number of other officers? For the purpose of putting this article in perfect order, I now move that the vote on its passage be reconsidered.

The **PRESIDENT.** Did the gentleman vote in the majority?

Mr. HUNSICKER. Yes, sir.

Mr. STANTON. I second the motion.

The **PRESIDENT.** It is moved that the vote on article number fourteen be reconsidered.

Mr. CAMPBELL. Is that in order now?

The **PRESIDENT.** It is in order. Does the delegate from Montgomery desire a vote now?

Mr. HUNSICKER. Yes, sir. I desire to make the motion and have it reconsidered, and then postpone the consideration of it until we have disposed of the article on railroads.

The **PRESIDENT.** The question is on the motion to reconsider.

Mr. D. N. WHITE. I ask for the yeas and nays on that motion.

Mr. HORTON. I second the call.

The yeas and nays were taken, with the following result:

YEAS.

Messrs. Achenbach, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Barr, Beebe, Biddle, Bigler, Black, Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Calvin, Campbell, Carter, Corbett, Corson, Cronmiller, Curry, Cuyler, Dallas, Darlington, Davis, De France, Dodd, Dunning, Edwards, Elliott, Ellis, Fell, Gibson, Gilpin, Hanna, Harvey, Hay, Hazzard, Hemp-hill, Howard, Hunsicker, Kaine, Knight, Lambertson, Landis, Lawrence, Lilly, Long, MacConnell, M'Culloch, M'Michael, Mann, Mantor, Minor, Mott, Newlin, Palmer, G. W., Patterson, D. W., Patton, Porter, Pughe, Purman, Purviance, John N., Purviance, Samuel A., Read, John R., Reynolds, Rooke, Runk, Russell, Simpson, Stanton, Turrell, Wetherill, J. M., White, Harry, Woodward; Wright and Walker, *President*—80.

NAYS.

Messrs. Airjcks, Baer, Carey, Cochran, Ewing, Fulton, Funck, Guthrie, Horton, M'Clean, Parsons, Reed, Andrew, Ross, Smith, Henry W., Smith, Wm. H., Van Reed and White, David N.—17.

So the motion to reconsider was agreed to.

ABSENT.—Messrs. Addicks, Ainey, Bannan, Barclay, Bardsley, Bartholomew, Bullitt, Cassidy, Church, Clark, Collins, Craig, Curtin, Finney, Green, Hall, Heverin, Lear, Littleton, MacVeagh, M'Camant, M'Murray, Metzger, Mitchell, Niles, Palmer, H. W., Patterson, T. H. B., Sharpe, Smith, H. G., Stewart, Struthers, Temple, Wetherill, John Price, Wherry, White, J. W. F. and Worrell—37.

The *PRESIDENT*. The article is again before the House.

Mr. HUNSICKER. I now move to postpone the consideration of article number fourteen for the present.

The motion was agreed to.

RAILROADS AND CANALS.

The *PRESIDENT*. When the privileged question was raised we had proceeded to the report of the committee appointed on the railroad article. The report was read.

Mr. CORBETT. I now move to proceed to the third reading of the article.

Mr. T. H. B. PATTERSON. I wish to raise a point of order with regard to this report, and I ask for the attention of the members of this body who have been members of the Senate of the United

States, and the other parliamentarians of the body, as to whether it is not a clear question of order that upon the reference of an article or bill that is upon third reading to a special committee, and that committee reporting amendments to it, the article which was referred on third reading is before the House, and the House must decide by vote whether it will adopt the amendment in place of the article.

The *PRESIDENT*. The committee have reported an article in the room and place and stead of the original article. That has been accepted, read and laid on the table. The motion is now made to proceed to the article on third reading.

Mr. T. H. B. PATTERSON. My point of order is this: The railroad article, number seventeen, passed this House on third reading and passed finally; a motion was made to reconsider the article as it is now on our files, and the motion to reconsider was carried. Then the question still would be, shall that article be passed? Pending that question, (which was the question before the House, as I submit to the Chair, and to every parliamentarian in this body,) the question on the seventeenth article as it is on our files, the Convention made an order by which they referred that article to a special committee. That special committee reported that article back. They reported amendments to it, and I submit to the body and to the Chair that the question, under all parliamentary order, is on the pending question, which was article seventeen on our files.

The *PRESIDENT*. The Chair does not see any point in that.

Mr. T. H. B. PATTERSON. My point of order is that the question now recurs on article seventeen as it is on our files, and that the committee's report is an amendment to that article and has been so here reported.

The *PRESIDENT*. The Chair will state his view of the question. The article on railroads and canals was referred to the special committee to amend as they saw fit. They have reported back the article amended. The amended article is before the Convention. It has been read, and it is now before this body on third reading. Is there anything else the gentleman from Allegheny would like to know?

Mr. T. H. B. PATTERSON. I submit that the report of the committee is that which they have submitted in printed

form and is an amendment to article seventeen.

The PRESIDENT. The Chair cannot decide otherwise than that the report of this committee takes the place of the original article and is before the Convention on third reading.

Mr. S.-A. PURVIANCE. If that is the case, I will proceed to offer an amendment.

The PRESIDENT. The report is open to amendment just as any other report.

Mr. CORBETT. I rise to a point of order. I have made a motion that is not disposed of, and until that motion is decided in the affirmative this article is not on third reading.

Mr. T. H. B. PATTERSON. I have not yielded the floor. I desire to appeal from the decision of the Chair on this ruling, because I submit it to any parliamentarian in this House that necessarily under the rules of this House and of every parliamentary body, article No. 17 must now be before this body.

Mr. CORBETT. I rise now to another question of order. I made a motion to proceed to the third reading. The gentleman makes a point of order that is not pertinent at all. This motion does not decide what is the article that is on third reading. The first thing is the motion, and then the gentleman can raise his point of order after it is on third reading, whether it is the report of the committee or whether it is the original article that was referred to the committee.

Mr. T. H. B. PATTERSON. For the purpose of expediting business, I withdraw the point of order for the present.

The PRESIDENT. The delegate from Clarion moves to proceed to the third reading of the article.

Mr. HOWARD. Now, Mr. President, I make a point of order. My point of order is this: That all reports presented to this body are to be first accepted by the body before we proceed to their consideration at all, and this Convention has a right to pass upon this question whether they will accept this report at all. I want to vote against receiving it. We have a right to do it.

Mr. BIGLER. Mr. President: If you will pardon me a word, because it is really your right to decide this question, I will say that no man who has participated in parliamentary affairs ever heard of the motion to which the gentleman from Allegheny refers until it was applied to the reports of the Committee on

Revision and Adjustment. It was applied in that case, but even there it was a mere matter of form—matter of form from necessity. Now, what did the Convention commit to a special committee of seven? It committed article number seventeen; and what has that committee reported back? It reports back article number seventeen with amendments, and the amendments are put in the shape of a substitute. In that state of affairs the report, necessarily being the article itself, becomes the text on which the body must act.

Furthermore, there is no use whatever of interposing parliamentary points here, because they avail naught. The sense of the body, the wish of the body, will be just as clear and as complete one way as the other. If it is the text, then it is open to amendment, and the gentleman from Allegheny, if he prefers the former article or something near it, has a clear right to move to go into committee of the whole for the purpose of substituting it, or he can move special amendments.

If you reverse it and we take up the original article the same would apply, and you would put your committee in the position of moving to go into committee of the whole to insert the sections of that report as amendments, when in truth you have committed the whole article to them. There is nothing whatever in the question.

Mr. HOWARD. In reply to the delegate from Clearfield I would say that this is a report of a special committee. It is not the report of a regular committee of this House. It is like all the reports of the Committee on Revision and Adjustment. This Committee cannot stand any higher or differently. That is a committee of this body, and in every instance where they have been reviewing an article committed to them we have required that their report should be accepted or adopted by the Convention before we proceed to consider it; and I want my right as a delegate here to vote against the reception of this report. I have a right to do it in this case as in the others.

The PRESIDENT. The delegate from Allegheny will recollect that every reference heretofore made to the Committee on Revision and Adjustment was before the article had passed third reading.

Mr. HOWARD. Then I make this point of order: That if this article had passed third reading it had been reconsidered and it was then before the Convention

not as having passed third reading, but was in precisely the same condition as the articles that have been reported by the Committee on Revision. This is just the same precisely. It is just in the condition of every other article before the Convention. It was only as if upon second reading because we had rescinded the vote whereby we had put it through third reading. Then it comes back; and my point of order, as I regard it, is well taken, that is precisely in the condition of the reports from the Committee on Revision and Adjustment.

Mr. BROOMALL. I rise to a question of order. Is there any question whatever before the House?

The PRESIDENT. The delegate from Allegheny is presenting a question to the Chair which the Chair thinks he has decided.

Mr. BROOMALL. Very well; then there is no question now before the House.

Mr. ALRICKS. I move to amend the motion of the gentleman from Clarion, that we proceed—

The PRESIDENT. There is a motion before the House to proceed to the third reading of the article.

Mr. ALRICKS. I move to amend it by saying that we proceed to read and consider that report *seriatim* section by section.

Mr. HOWARD. I appeal from the decision of the Chair. I do not know whether it is decided or not; ["Too late!"] but if it is decided that—

The PRESIDENT. The Chair understands that the article is now before the Convention, open to amendment by any delegate who will move to go into committee of the whole for that purpose.

Mr. MANN. The motion of the delegate from Clagion (Mr. Corbett) has not yet been put.

Mr. COCHRAN. I understand the decision of the Chair to be that the seventeenth article of the Constitution as amended is now before the Convention. Now, sir, what is the seventeenth article of the Constitution? It is the article which was pending here last Friday and the text of which was referred to a certain committee for the purpose of revision and adjustment and modification; I believe those were the very words used in the resolution. Now, that committee have come here and reported not a revision and adjustment, but an entirely new article, and the question is first pending on the article itself, on the original text of the article, whether this

Convention will adopt the report of the committee which was appointed to revise and modify this article. I hold that the original text of the article is before us, and the question is whether the Convention will adopt the report of the committee which was appointed to revise and modify that article. I submit that that is the proper question now to be submitted to the Convention; and until that question has been submitted the article remains in its integrity as it was committed and is the text on which the Convention is to act. I call for the reading of the article.

The PRESIDENT. The motion of the delegate from Clarion is to proceed to the third reading of the article.

Mr. COCHRAN. I understood the Chair to say that the motion was disposed of.

The PRESIDENT. The delegate from Dauphin (Mr. Alricks) moved to amend that motion by providing that we proceed to consider the amended article *seriatim*. That motion is before the Convention.

Mr. LAWRENCE. There is no question of order there, as I understand it.

Mr. HOWARD. Upon my question of order, I appealed.

The PRESIDENT. What do you appeal from?

Mr. HOWARD. I appeal from the decision that this substitute is before the body or can be put before the body without the reception of it or the adoption of it as other reports, because it was only upon second reading. I appeal from the decision and hold that it cannot be put before this body and that we cannot proceed to third reading until the Convention either accepts it or adopts it, as we did other reports of committees.

Mr. BIGLER. Whilst the gentleman is writing his appeal, I have a word to say. Now, sir, I have little patience with a point of order which involves nothing so far as the action of the body is concerned. You have accepted this report because you could not refuse to do so. Suppose the gentleman from Allegheny gets a vote and the report is rejected what then? You have got no article seventeen at all. This committee has reported the article back with amendments. Now, it is the text, and I say there is no question involved, because every feature of it is open for amendment. If the gentleman from Allegheny prefers the article as it stood before, all he has to do is to move that the Convention resolve itself into committee of the whole to strike out this text

and insert the former. That is a broad right, and it does not affect the strength of the parties here at all. I can therefore see no reason for spending any time on a question of order.

Mr. CORBETT. I will insist that there is nothing before the Convention for the Chair to make a point of order upon until this motion is put. The motion does not decide what article is on third reading or the subject of it; and until the motion is carried, there is nothing to make a point of order upon.

Mr. T. H. B. PATTERSON. I ask to have the motion stated.

The PRESIDENT. Those in favor of proceeding to the consideration of the article will say "aye;" those of a contrary opinion, "no." [Putting the question.] The ayes have it; the motion is agreed to.

Mr. HOWARD. Mr. President: Do you deny me my right of appeal? I stand here as a delegate having my rights. I have asked for an appeal from the decision of the Chair.

The PRESIDENT. You shall have it.

Mr. HOWARD. Very well; I am going to have it.

The PRESIDENT. The gentleman will please keep his temper.

Mr. HOWARD. I will keep my temper, but I have rights here as well as the Chair.

The PRESIDENT. Certainly, I will concede every right that the delegate has; but he is not this Convention.

Mr. HOWARD. No, sir, I do not claim to be, but I claim to be one of the members of it, and I insist upon it that when I take an appeal from the decision of the Chair, I have a right to demand that that appeal shall be put. It is my right.

The PRESIDENT. The Chair has decided nothing from which an appeal can be taken. A motion has been made to proceed to the third reading of the article—

Mr. HOWARD. Then I make the point of order—

The PRESIDENT. The gentleman will please keep order. I want to keep my temper and I want gentlemen to keep their temper. Let me state the question, and then delegates can appeal if they choose. A motion was made by the delegate from Clarion (Mr. Corbett) to proceed to the third reading of this article. I decided that motion to be in order. The motion was put, it was carried; and the article is now on third reading. I do not decide whether this report is the article

or the original text is the article until the question arises. When it arises I shall decide it.

Mr. T. H. B. PATTERSON. I ask for the reading of the article before the House.

Mr. HOWARD. My point of order was upon the motion made by the delegate from Clarion, that that motion was not in order until the report had been first accepted or adopted. The motion has been made now at any rate, and I now say the motion was out of order. I have drawn up the point of order on the ruling of the President, and now I ask for my appeal from the decision of the Chair upon that point of order.

SEVERAL DELEGATES addressed the Chair.

Mr. MACVEAGH. Let us have this appeal disposed of. For mercy sake, do not all of us rise at once and attempt to instruct the Chair.

The PRESIDENT. I cannot bring the gentleman or his appeal to the Chair. If he has an appeal, let him present it.

Mr. MACCONNELL. Our third rule reads in this way: "He"—that is, the President—"shall decide all questions of order. An appeal from his decision may be made in writing by any two delegates." Now, an appeal cannot be made in any other way than in writing.

Mr. MACVEAGH. It is in writing.

Mr. MACCONNELL. It has not been so presented. It has not been read. We do not know what it is.

The PRESIDENT. I do not know any more than you do.

Mr. MACCONNELL. It must be made by two persons in writing.

Mr. HOWARD. I withdraw the appeal Mr. T. H. B. PATTERSON. Now I ask for the reading of the article before the House.

The PRESIDENT. The article will be read again.

Mr. T. H. B. PATTERSON. I ask for the reading of the seventeenth article on our files.

Mr. ARMSTRONG. I ask for the reading of the article.

The CLERK. Mr. Patterson, of Allegheny, asks for the reading of the seventeenth article as it appears on the files of members.

The PRESIDENT. Any delegate can ask for the reading of that article, but that is not the article before the House.

Mr. BROOMALL. The delegate has no right to read that unless he has it read as

a part of his speech. If he becomes entitled to the floor and chooses to have that read in his ten minutes, all right.

Mr. ARMSTRONG. I move for the reading of the article under consideration.

The PRESIDENT. It is moved that the Convention proceed to the third reading of the article under consideration; that is, the report of the committee.

Mr. COCHRAN. I rise to a question of order. I understand the Chair to decide that the article under consideration is the report of the committee. From that decision I should like, if I have time, to appeal in writing, if anybody agrees with me. I think that the report of the committee is not the article.

Mr. LAWRENCE. That is the question I hoped the Chair would come to at the proper time, although I have been waiting for some time. It is very clear to my mind that the report of the committee is the question now before the Convention; not the article, because the whole article was committed to the committee. They have made a report on that article, and that report is certainly the question now before the Convention.

Mr. DALLAS. I rise to a point of order. My point of order is that it is not in order to instruct the Chair upon a point of order unless a gentleman is called upon to do so. If we do not stop this discussion, we shall never get through.

Mr. LAWRENCE. I do not undertake to instruct the Chair. The Chair intimated that that was his view of it.

The PRESIDENT. The Chair has so intimated, and when the proper time comes the Chair will so decide, unless he changes his opinion, and he will not change his opinion from loud talk or angry words. It is moved by the delegate from Lycoming that we proceed to the consideration of the article reported this morning.

Mr. NEWLIN. The appeal is reduced to writing, and I now send it to the desk.

The PRESIDENT. What appeal?

Mr. MACVEAGH. The appeal from the decision of the Chair.

Mr. PURMAN. I submit to the Convention a practical question: What difference does it make whether the report of the committee is treated as the text before the House or the article originally referred to the committee? Any member of this Convention can move an amendment. The Chair has already decided, and correctly, that any member of the Convention can move to go into commit-

tee of the whole for the purpose of striking out the report of the committee and substituting the original article that was referred to the committee of seven. We have already wasted more time on this matter than would have been sufficient, in my judgment, to dispose of the article.

Mr. MACVEAGH. Some of us cannot see how we have a right to strike out anything that we never have accepted and never have had an opportunity to vote upon. I do not believe the report of any seven men is an article in the Constitution which I am called upon to move to amend and strike out, until I have been given the opportunity to strike it in somewhere.

Mr. PURMAN. According to parliamentary usage, it has been inserted by the report of the committee.

Mr. MACVEAGH. We have never accepted the report.

Mr. NEWLIN. I desire to ask a question of the Chair.

Mr. HARRY WHITE. May I ask what question is before the House?

The PRESIDENT. There are so many questions that it is difficult for the Chair to say.

Mr. COCHRAN. I understood that the Chair had decided—

The PRESIDENT. There is a motion by the delegate from Lycoming to proceed to the consideration of the report of the committee. That is the only question before the Chair.

Mr. COCHRAN. I understand that the Chair had decided the motion to proceed to the third reading of this article was carried, and that the subject-matter before the Convention was the report of the committee to revise and modify that article. From that decision I, in conjunction with the gentleman from Philadelphia, (Mr. Newlin,) appealed on the ground that the subject-matter before the Convention was the article as referred, and that until the report of the committee was voted in as an amendment to that article or was adopted by this Convention, the subject-matter before the Convention was the article that was referred. It was upon that ground that we took the appeal.

Mr. NEWLIN. And that appeal has been reduced to writing.

Mr. COCHRAN. Yes, sir, and it is lying upon your table at this moment.

Mr. NEWLIN. And we have a right to have our appeal disposed of. It has been reduced to writing according to the rules,

and is in the hands of the Clerk. I ask for a vote on that appeal now.

The PRESIDENT. The Clerk will read the appeal if he has it; but I do not know what it is.

The CLERK. A motion was made by Mr. Corbett that the Convention resume the third reading of the article on railroads and canals. Mr. Cochran raised the point of order that the article before the Convention was the original article as reported by the Committee on Railroads and Canals and amended by the House. The Chair decided that the article before the Convention was the report of the committee, from which decision Mr. Cochran and Mr. Newlin appeal, and the appeal has been reduced to writing in the following words:

"The undersigned hereby appeal from the decision of the Chair in that the Chair decided the report of the special committee to be under consideration.

THOMAS E. COCHRAN,
J. W. M. NEWLIN."

The PRESIDENT. The question is on sustaining the decision of the Chair.

Mr. DARLINGTON. I beg leave to submit that the question is not on sustaining the decision of the Chair, but on sustaining the appeal, because otherwise a tie vote would leave the Chair minus.

Mr. LAMBERTON. No, the question is, "Shall the decision of the Chair stand as the judgment of the Convention?"

Mr. DARLINGTON. Not at all, because the effect of that would be on a tie vote to leave the Chair minus.

Mr. LAMBERTON. Certainly, in every parliamentary body, the question on an appeal always is: "Shall the decision of the Chair stand as the judgment of the House?"

Mr. HARRY WHITE. I desire to vote intelligently and consistently. If I understand the matter aright, the question now before us is on the appeal made by the delegate from York, seconded by the delegate from Philadelphia, in writing, which is from the decision of the Chair that when the Convention resolved to proceed to the consideration of the seventeenth article the article on third reading was as reported from the select committee. That is the decision of the Chair, and that decision has been appealed from. I am one of those who voted against the reference of this article to the select committee, and I was honest in my vote. On this appeal, however, I feel called upon to say that the decision of the Chair is ac-

ording to the unquestioned rule of order, so far as my experience goes. What is the rule? The rule of order is regulated by the character of the reference. I have taken the trouble of looking at the Journal, and I will state what I there find. This article had finally passed, and then that vote was reconsidered; subsequently discussion ensued; and then this motion was made, which prevailed, "that the article be referred for revision and modification to a select committee of seven, to be appointed by the President." The motion was that the article be "referred for revision and modification," and that motion prevailed by a vote of forty-eight to forty. That committee reported this morning, and what have they reported? They have reported the article as it passed third reading and as it was subsequently reconsidered, or as it was upon third reading and referred to them, "revised and modified," and their report is the only question which we have before this body. Where is the original article? We have not got it; we sent it to the committee, and the committee have revised and modified it.

I do not care about insisting upon my experience, for there are probably other gentlemen here with larger experience than myself in legislative bodies; but allow me to say that I have seen this very thing done repeatedly, and the character of the report of the committee when a matter is referred on third reading depends on the instructions. When they fulfill their instructions and report back a bill accordingly, the bill as reported by them is before the body.

I think the Chair has decided the question properly. If gentlemen desire to bring up the question on the original report of the Committee on Railroads and Canals, it is easy for them to move to strike out the article now before us and insert the article originally reported by that committee.

Mr. MACVEAGH. The point I have had in my mind from the beginning is just this: I was in favor of the acceptance of this report and the substitution of this report by its acceptance, for the article, and then for a gentleman in favor of the former article moving to substitute that. But I have been utterly unable to see, and I am yet unable to see after the gentleman from Indiana has endeavored to explain it, how by the mere report, without any acceptance of that report whatever, without any affirmative action of

this body whatever, the report itself takes its place on our files as an article. I believe there was a preliminary motion necessary to accept this report on which we could not otherwise vote.

Mr. DARLINGTON. Oh, no!

Mr. BROOMALL. I do not desire to take any time in debating this question. I supposed it had been decided long ago because it is practically no new question. The Chair is undoubtedly right. We are practising upon his ruling every day. There is no difference between referring this article or any other article to the committee of the whole for special amendment, or referring it to the committee of the whole for general amendment, or referring it to any other committee for any other purpose. When it comes back it comes back modified, as the committee of the whole does, or as the special committee does. There is no difference. It is now the article. Why, suppose you had referred it to a committee to strike out a word, when it came back would it not be with the word stricken out? It would not be as it was when it went there, by any manner of means. It would be just as it was when it came back, and if you move to strike out a section it is the same.

Mr. BEEBE. Suppose no change is made?

Mr. BROOMALL. If they make no change the original article would come back, of course, but we are not passing on such a case to-day.

Mr. BEEBE. The form is then, "shall the report of the committee be accepted?"

Mr. BROOMALL. No, it is not the form, we are doing otherwise every day. The motion to refer to a special committee is the same as referring to the committee of the whole, or to any other committee for any purpose whatever. In either case, when any subject is referred it comes back with the thing done which the committee was directed to do, and the thing done is then what is before the House. There is only this practical effect, that for what is to be considered we have more facility. We have better advantage in getting at it in this manner, because it is the right way in which to reach it, and the right has always the advantage.

Mr. COCHRAN. With regard to this matter it seems to me to be very clear that the last argument, addressed to the Chair has no foundation. I have been

surprised, I may say, at the action of the Convention in regard to this very matter. Here you refer a proposition on third reading to a committee of the whole for special amendment. That amendment is made, and I then contend that the question when the committee of the whole rises and reports, is, "Will the Convention agree to the report of the committee of the whole?" So when you refer a bill to a committee of the whole and the committee of the whole reports that bill negative, the question is again, "will the Convention agree to the report of the committee of the whole?"

And, sir, if this is a report of a special committee, it stands on no higher ground than a report of the committee of the whole, and the question is here, first and foremost, whether when a committee appointed to revise and modify an article brings in an entirely new thing, returns the article disembowelled, this Convention is going in the very first instance to accept that report as the subject-matter before it, or whether the question shall not be presented whether this Convention will agree to the report of that committee. I contend, sir, that the appeal of the gentleman from Allegheny is in order and is right, and that whether this is a special committee or a committee of the whole, the question first of all is, will the House agree to the report that is made, when the article is in the stage which this article has reached.

Mr. BUCKALEW. I think a few words will settle this question. If gentlemen will turn their attention back to what we have done already, (because in cases of this sort our practice ought to control our action,) they will find that on a former occasion I insisted to the best of my ability that our practice ought to be, when we went into committee of the whole at this stage for amendment, when we came out of committee to put the question, "shall the report of the committee of the whole be adopted?" I insisted upon that and I read the special rule of the Senate of the State in confirmation of my views. I was overruled by the Chair. My views, were rejected by the Convention and we determined to follow the practice of the House of Representatives in the State and the practice set forth in Ziegler's Manual and some other very good authorities to wit: That when we went into committee of the whole under instructions, the vote to go into committee was the final vote, and that the proceedings in

committee and the report of the committee were mere matters of form.

Now, sir, out of self-respect, out of due consideration for the Chair, who is bound by what we have done, I am for adhering to this former decision and to our uniform practice under it from that day down to the present moment; and I think it would be exceedingly unreasonable now for gentlemen to vote to over-rule the Chair when they have instructed him heretofore that that is to be the law and practice of this body—when they themselves are bound by what they have done on this question on a former occasion.

One additional remark. At this stage, upon third reading, a vote to refer to a select committee, or to a standing committee, under instructions, does not differ in the slightest degree from a motion to go into committee of the whole. Either is a committee. The whole House may act as a committee, a standing committee may act as such, or a special committee may act as such, but the proceedings with reference to the report upon a reference and the parliamentary consequences are identical. I insist, therefore, we must vote to sustain the Chair out of self-respect to ourselves and out of decent respect to the Chair, who has administered the rules of practice we have acted upon.

Mr. SIMPSON. The gentleman from York is of the opinion that by sustaining the appeal of the gentleman from Allegheny, then a single vote upon the acceptance of the report of this committee will adopt the article at once. In that, undoubtedly he is mistaken. He proposes, by his motion, to say grace on the whole barrel of pork at once. [Laughter.] When the report of this committee comes back, we can accept it as a finality, we can adopt it after argument, or we can amend it, or do anything else with it that we please.

The ruling of the Chair is strictly right, and for this reason: When this article was referred to the committee it passed out of the possession of this body. Has it come back? It has come back in an amended form, and it is now before us as the report of the committee originally made, subject to consideration, amendment, discussion, change, or any disposition which the Convention may choose to make of it. But the original article that was referred last Friday is no longer here, it is no longer in the possession of this body. Having had some little experience in legislation, I am constrain-

ed to say that the decision of the Chair is strictly right and parliamentary, according to the ruling in Pennsylvania, even if it is not according to the ruling in Congress, and I trust that the Convention will sustain the Chair in the decision made.

Mr. S. A. PURVIANCE. I make no very great pretensions to be a parliamentarian; but I am very sure that scores of gentlemen in this House, not even the President, can claim to be infallible on that subject. We have been getting into confusion on various occasions, and I think it is about time that we understood the law upon this subject. My common sense I take as my guide. When this subject was before the Convention the other day, what was it? It was the consideration of the railroad article as it came from the Committee on Railroads and Canals, which was composed of fifteen gentlemen. When the gentleman from Clarion (Mr. Corbett) rose and made his motion what was it? It was simply to submit the article of the Railroad Committee for mere revision.

Mr. BUCKALEW. And for modification.

Mr. S. A. PURVIANCE. Well, then, for revision and modification. Now, when that report comes back to us, what is it? It is the article on railroads. That which was submitted must necessarily come back; and although it may be considered that that article was like the lamb that was given into the power of the wolf, it is nevertheless the lamb that is to be delivered back to us and to be considered before this body.

Now, sir, whilst I dislike exceedingly to vote against a decision of the President, my conscience constrains me to say that on this subject he is in error and that we have before us the railroad report, not the revision of the report, because until that is accepted it is no part of the report. We did not authorize that supervising committee to wipe out the proceedings of the Railroad Committee that had taken some eight or nine months to settle. We did not authorize them to do any such thing as that; and yet here gentlemen are contending now that on a single day, on a Saturday's session of these seven men—the seven wise men they may be called—they wiped out the proceedings of fifteen gentlemen matured by seven or eight months consideration. I believe the President is wrong in his decision.

Mr. BARR. I claim to have had no legislative experience on the question involved now before this House. I therefore claim to be in a condition to take advantage of the arguments that have been made *pro* and *con* on this question. From those arguments, looking at the question from a common-sense-view, I am compelled to vote to sustain the President, notwithstanding that I want it understood that by so voting I do not mean to endorse all that this committee of seven wise men have brought in. I propose, though, to sustain the President, because he is right; not as a matter of courtesy, but because I believe he is right, and because whether he be sustained or not, there can be no practical difference in the final issue. The same question that will arise here, whether this report is accepted or rejected, may arise by offering the old report instead of this. I shall therefore vote to sustain the Chair.

Mr. ARMSTRONG. Mr. President: I apprehend that very little difference, practically, can be made upon either side of this question by the particular manner in which it may be submitted. It is to be borne in mind that the committee of seven acted under specific instructions. They were required to revise the report which had been under the consideration of this Convention so long, and they were instructed to modify it; and the same resolution required that they should report upon Tuesday morning.

Now, I take occasion to say, that the members of that committee of seven were facilitated to a degree which it is impossible to express by the very able consideration and labor of the committee which preceded us in the consideration of the question. We did not come to the consideration of that question as an entire novelty as they did; but we came to it in the light and with the aid of the able views which had been well presented and repeatedly presented by that committee in this House. But we have not presented an entire new article. We have made the article reported by the standing committee the basis of what we have done, and that which we have reported is, under precise instructions, a revision of that which they had done.

In this view the question comes before the House under instructions, and it is the article as amended by instructions from this House that is before the Convention, and in that view I take it that the decision of the Chair is entirely cor-

rect as a construction of parliamentary law. When this report is thus made the basis of consideration in this Convention, it is open for any one to move an amendment either by striking out or inserting whatever in the judgment of the Convention they may desire to strike out or insert. But as a parliamentary question I rise to say that the decision of the Chair is correct and ought to be sustained by the Convention.

Mr. BIDDLE. Mr. President: I shall vote to sustain the Chair. I feel convinced from the debate that has taken place, that he is right; and I am quite free to say that before the debate began I thought he was wrong, and unless I had been enlightened as I have been, I should have voted the other way. The gentleman from the city who spoke a while ago has put it so clearly that it does not require any restatement of the case. The article having gone to the committee is in their charge and can only come before the House from the committee. But there is another reason why I should vote to sustain the Chair. It seems from what the gentlemen from Columbia has stated that whether the Chair is now right or wrong, he is simply following the rule adopted by this House, and I think it would be indecorous in the last degree to over-rule him for carrying out the previous resolutions of this body. I shall therefore vote "aye."

Mr. T. H. B. PATTERSON. I just want to say one word; and that is that in the case referred to, where we committed matters to the committee of the whole, it was to have specific action on the exact words that were to be inserted. In this case there were no specific instruction, and therefore the cases are not analogous, and there is no practice of this House, except that of accepting reports from our standing committees, in which case we have always voted to accept, but even there the original matter to be stricken out was reported in brackets and submitted to the Convention for action. Here an entirely new article is reported without any specific instruction and without any such opportunity to understand the changes.

Mr. MACVEAGH. I trust I shall be pardoned for one moment in stating that after the report of Judge Woodward's Committee on the Legislature, a special committee precisely like this was made although a special motion was subsequently made that that report be received and

accepted, in the words of Mr. Stanton. The report was made by Mr. Woodward. The President said afterwards "the report is now made." The motion of Mr. Stanton was, "I now move that the report be received, printed and laid on the table; that motion was distinctly agreed to, and the gentleman from Columbia forgets that he persuaded us all once before that we were wrong and reversed us entirely, and I rose in obedience to his requirement and made here five different formal motions because he said it was necessary, until the delegate from Allegheny, the Convention will remember, said that the gentleman from Dauphin and the Chair were running this Convention, without anybody knowing anything about it.

Mr. BUCKALEW. I rise to explain. The proceeding to which the gentleman refers was a report of the Committee on Revision on the second reading of articles not on third reading.

Mr. MACVEAGH. We were on third reading on Judge Woodward's article.

Mr. BUCKALEW. In that case it was the receiving of a report and ordering it to be printed.

Mr. MACVEAGH. And it was in obedience to that that the report was made.

The PRESIDENT. The question before the Convention is, shall the decision of the Chair stand as the judgment of the House?

Mr. D. N. WHITE. I call for the yeas and nays.

Mr. CORRETT. I second the call.

Mr. LAWRENCE. Before that vote is taken, as we are all compelled to vote on this question, I desire to say one word. ["Question!" "Question!"] ["Go on!"] A man has a right to put himself right.

Mr. EWING. I rise to a question of order. It is out of order for gentlemen to be calling "question" when a member is on the floor, and especially for those gentlemen who talk on every subject that comes up, and want to cry down a man who seldom speaks.

Mr. LAWRENCE. Those are the very gentlemen who are disposed to cry us down. I have nothing to say in animadversion of their course. I have listened to some of those gentlemen from day to day on all these questions when I was as well prepared to vote as they were. I listened to them with pleasure, and, sir, you will bear me witness that I have not wasted the time of this Convention in discussion, and I would be glad that

other men could say the same. But when I am called upon to vote on a question of order, which goes upon the record, and which will go down to our children to be looked at hereafter, and probably be cited in the legislative councils of the State as a precedent, I want to be right. I would be very glad to vote to sustain the Chair on all questions of order. It is my desire to be always with the Chair; but, sir, it is more my desire to be right on these questions.

When this report was made this morning, I never hesitated for a moment, and I hoped the Chair would see the point. I knew he wanted to do what was right, and I know now he wants to be right. I could not but see that this was a mere report of a committee. What did we do on Friday last? We committed the article on railroads to a select committee. For what purpose? To amend it, to modify it, to revise it, as the Journal says. That committee have modified it, have revised it; they have not made a new report entirely, as they say themselves, and they have presented it to us this morning. What is the question now? Does their report take the place of the article? Is it not in the possession of this Convention? Certainly the text of the article is in the possession of the Convention. The committee were only authorized to amend it. They have amended it, and now what is the question? The question is on the report of the committee, on the amendments, not on the article as an article. It is so plain to me that I am astonished that my friend from Columbia (Mr. Buckalew) should take a different view of it, although I know how he feels about it. I know his judgment is clear on this subject. Has not the gentleman been on committees of conference over and over in the United States Senate? What is the question when a report is made from a committee of conference? It is not on the bill referred to the committee, but it is on the report. What is the question in the Senate of the State when there is a bill before it on third reading, and it is recommended for amendment? Is it not on the amendment?

Mr. BUCKALEW. Certainly.

Mr. LAWRENCE. The gentleman admits it. The question is on the amendment, not on the bill, not on the article. How could it be otherwise? To say that this committee had power over this whole subject, to take away the text of the article and change the whole thing and

bring in a new article, and that the Chair should receive it as the article is to me monstrous. It is clear to my mind (and I do not judge any man harshly who differs from me) that the question is on the report of the committee on the article as amended, or the amendments, if you choose, and you can take up these amendments *seriatim*, one by one, and vote upon them separately; but to say that this is the article reported by the gentleman from York, (Mr. Cochran,) the chairman of the Railroad Committee, is monstrous. It is not the article reported by him; it is not the article of the Committee on Railroads; it is the report of a select committee of this body.

Mr. BUCKALEW. I desire to explain. The gentleman from Washington and myself have both been members of the State Senate, and we are familiar with the practice of that body, and I suppose when we met here we were both desirous of following it. As I said before, the Senate of the State has a special rule requiring a vote of the acceptance of all reports from committee of the whole. That is an express rule written down, and that express rule was necessary in order to establish a practice in the Senate which did not prevail in the House of Representatives, and did not prevail in other quarters in parliamentary law. I was in favor of this Convention accepting that Senate special rule.

Mr. LAWRENCE. I ask the gentleman did he ever know in the House of Representatives of this State of a report from a committee after a bill had been committed on third reading, where the question was not on the report of the committee?

Mr. BUCKALEW. Certainly; it is a common practice.

Mr. LAWRENCE. Never.

Mr. BUCKALEW. You will find it in Ziegler's Manual, where is set forth that that is the practice.

Mr. LITTLETON. I desire to ask the gentleman from Columbia a question, so as to enlighten myself on this subject. If the decision of the Chair is sustained, as I understand it, this report of the committee will be the article before the House for consideration. Suppose it is then voted down, what article have we upon the subject of railroads?

Mr. BUCKALEW. I suppose I can answer the gentleman very easily. If you vote down any article of the Constitution, no matter what you have before you, it is gone.

Mr. MACVEAGH. But this is not an article of the Constitution; it is the report of a committee.

Mr. LITTLETON. I desire to say in explanation of my vote, that it is just that result which will control my vote on this occasion. The Convention has passed on third reading what is called an article on the subject of railroads. I cannot understand how that article can disappear merely by a negative vote on the report of the committee. It seems to me that the article itself should be the basis of action, and the acceptance or rejection of this report should in no wise affect the previous action of the House. Therefore, if that result would follow, it shows conclusively, to my judgment, that the Chair is in error on the subject.

Mr. KATNE. I desire to say but a single word on this question, and that in reply to a matter cited by my friend from Washington (Mr. Lawrence.) He likens this to the report of a committee of conference on a bill in the Legislature, and so will I, and I will take that as a precedent for this. Suppose this to be the report of a committee of conference in the Legislature; it comes in either to the Senate or the House from the committee, and then what is voted upon? Nothing but the report of the committee. They may have changed the entire bill, and if their report is voted down, the bill is gone and lost forever.

Mr. LAWRENCE. Does not the gentleman know as well as any man on this floor, that a committee of conference have no power over any portion of a bill except the part in dispute, and must report on that alone?

SEVERAL DELEGATES. That is so

Mr. KATNE. But, sir, I know very well that committees of conference have changed the entire bill from beginning to end, and that such reports have been adopted, and I know that reports of conference committees have been made and they have been voted down, and the bill has been gone and lost forever.

Mr. HOWARD. Mr. President—

Mr. ANDREW REED. I rise to a point of order. The gentleman has spoken on the subject.

Mr. HOWARD. Not at all.

Mr. MACCONNELL. The rule is that no gentleman is to speak more than once on any subject.

Mr. HOWARD. Mr. President: Believing as I do that the ruling of the Chair in this case was wrong, I have nevertheless listened to this discussion cheerfully

I do not want to act from any mere motive or feeling of prejudice. I want to do what is right.

The delegate from Washington, (Mr. Lawrence,) in the expression of his opinion, does it from perhaps as long an experience as any gentleman in this body. Delegates will probably remember that for a long time he presided over the House of Representatives as Speaker, and must from necessity have become well acquainted with parliamentary law. If we now come forward and sustain the decision of the Chair, what are we doing? We are allowing a report made by the regular Railroad Committee of this Convention, presented to it, considered by this body three times, finally passed, and then fought over in every line, in every letter, in every section; a report that has been considered from the Delaware to the lakes—we are allowing a committee to sweep that report away and bring in something new to take its place. Instead of giving the regular committee the advantage that they had in this body by having their report as the affirmative question, they are to be put on the defensive. It is just changing the position precisely. The report of the Railroad Committee, sustained time and again, more than fifty times, by a majority of this Convention on various motions, is stricken down by this select committee; and now they ask by a violation, as I take it, of parliamentary rule, to place the minority in a position before this body that ought to be occupied by the majority. That is the effect of sustaining the Chair.

Mr. MANN. My friend from Washington was certainly wrong if he meant to oppose the decision of the Chair. What is the effect of voting down the report of a committee of conference? It kills the bill. The legislative body has no bill before it but only the report of the committee of conference, and if that fails the bill is gone. That is precisely what would be the effect on this article if you refuse to receive the report of the committee; you have got no article at all. The whole article now is the report of the committee, and there is no other before the House; and the Chair, if he had decided anything else, would have decided against the uniform decisions of all parliamentary bodies from the time they were organized. I challenge any gentleman who is opposing the decision of the Chair to find a single decision of any par-

liamentary body that was ever contrary to it.

Mr. LAWRENCE. The gentleman has admitted the whole question himself. He admits that the question is on the report of the committee.

Mr. MANN. Then the decision of the Chair is right. That is precisely what I am saying. There never was a decision of the president of a parliamentary body contrary to the decision of our chairman.

Mr. BOWMAN. I know this Convention is anxious to get a vote on this question. Like my friend from Washington, I have not occupied much of the time of this Convention, but I wish to state the reasons why I shall vote to sustain the decision of the Chair on this case, and if gentlemen will hear me for about a minute and a half, I think I can make myself understood, at least to my own satisfaction.

Last Friday this Convention had under consideration the article on railroads and canals. It was then upon third reading. The House passed that article. A reconsideration of the vote was had, and it was referred by a vote to a special committee. By the action of this Convention that committee was raised and appointed. The authority was conferred upon the Chair to appoint a select committee of seven. For what purpose? To revise this article, to amend it, if you please, to make a new article if they saw fit. They had that authority, and they received that authority by a majority vote of this Convention. What did that committee do? They retired for consultation. Now, let us see what is the position we are in. When that committee had this article under consideration, it had passed beyond the reach and beyond the control of the Convention. Gentlemen forget one thing, and that is that this special committee have reported upon the same subject-matter. They could not change that. The committee have not undertaken to do so. The same subject-matter is embodied in their report. Now, what is the question of order here? It is claimed upon the one side that the Convention first should accept the report of the committee. What would be the effect of that? If you accept the report of the committee, what then are you going to do? Are you going to amend it? Are you going into committee of the whole for the purpose of special or general amendment? Just as soon as you accept the report of that committee, you make it your opinion. Let

us see what is the definition of the term "accept." It is to receive, to admit, to subscribe to, to become liable for. Then if you adopt the report of that committee no amendment is in order; you have the whole thing before you, and that is the end of it.

Why, Mr. President, that would be a strange anomaly. Suppose the decision of the Chair is not sustained, suppose it is reversed, what have you before the body? You have the subject-matter that you have had for the last three weeks before this body. You do not have the original report of the committee of fifteen on the subject of railroads and canals. You have the subject-matter of the amendments added to that article on railroads and canals, nothing more, nothing less. It is open to amendment. You may vote it down, or you may vote in the original proposition, as you did once before. You may do all that, and you have it then before you. I think the decision of the Chair is correct in every respect. Certainly the decision of the Chair, as made this morning, is made in accordance with and in pursuance of instructions received from this House on former occasions.

Mr. KNIGHT. The gentleman from Venango thinks that this is a committee of conference. I want to know who they are to confer with. I supposed that a committee of conference was when one House appointed a committee to meet a committee of the other House in order to compare views upon a subject on which they were divided.

Mr. SIMPSON. It is very easy to pass a bill, but it is a different thing as to details.

The PRESIDENT. The yeas and nays have been called for and the Clerk will proceed with the roll-call.

Mr. BEEBE. I wish to say but one word—

Mr. H. G. SMITH. I rise to a point of order. Discussion is out of order at this moment.

The PRESIDENT. The point of order is well taken. The Clerk will call the names of delegates.

Mr. BARCLAY. I rise for information. Those who are in favor of sustaining the decision will vote aye as I understand it.

The PRESIDENT. The understanding of the gentleman from Berks is correct.

The yeas and nays were taken and were as follow, viz:

YEAS.

Messrs. Andrews, Armstrong, Baer, Baker, Barclay, Barr, Biddle, Bigler, Black, Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Carey, Clark, Corbett, Cronmiller, Curry, Cuyler, Dallas, Darlington, Davis, Dodd, Dunning, Edwards, Elliott, Ellis, Fell, Fulton, Guthrie, Hanna, Hemphill, Hunsicker, Kaine, Lamberton, Landis, Lear, Lilly, Long, M'Clean, M'Michael, Mann, Mantor, Parsons, Patton, Porter, Pughe, Purman, Read, John R., Reed, Andrew, Rooke, Runk, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Temple, Turrell, Wetherill, J. M., White, David N., White, Harry and Wright—64.

NAYS.

Messrs. Aohenbach, Alricks, Baily, (Perry,) Bailey, (Huntingdon,) Beebe, Calvin, Campbell, Carter, Church, Cochran, Curtin, De France, Ewing, Funck, Gibson, Gilpin, Harvey, Hay, Hazzard, Horton, Howard, Knight, Lawrence, Littleton, MacConnell, MacVeagh, M'Culloch, Minor, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Purviance, John N., Purviance, Sam'l A., Reynolds, Ross, Russell, Smith, H. G., Van Reed and Woodward—40.

So the decision of the Chair was sustained by the House.

ABSENT—Messrs. Addicks, Ainey, Bannan, Bardsley, Bartholomew, Bullitt, Cassidy, Collins, Corson, Craig, Finney, Green, Hall, Heverin, M'Camant, M'Murray, Metzger, Mitchell, Mott, Niles, Palmer, H. W., Sharpe, Stewart, Struthers, Wetherill, John Price, Wherry, White, J. W. F., Worrell and Walker, President—29.

Mr. TEMPLE. I ask whether this article is now before the House.

The PRESIDENT. The article reported by the special committee is before the Convention.

Mr. TEMPLE. If so, I desire to make a motion to go into committee of the whole for the purpose of substituting the report of the original committee of fifteen on railroads and canals in place of this article.

Mr. HARRY WHITE. I second the motion.

Mr. TEMPLE. I do not desire to debate the question, but I call for the yeas and nays.

The PRESIDENT. The report of the special committee being before the House, the gentleman from Philadelphia moves to go into committee of the whole for the purpose of striking out the article and substituting the report originally made by the Committee on Railroads and Canals.

Mr. D. N. WHITE. Does the gentleman from Philadelphia desire to substitute the article originally reported by the Committee on Railroads and Canals or the report of that committee as amended?

Mr. MACVEAGH. As it stood before reference.

Mr. TEMPLE. As it had been amended by the Convention. I will send it to the Clerk's desk to be read.

Mr. ARMSTRONG. Then I rise to a question of order. The question having been decided that the report of the committee is now before the Convention, the right to amend this article takes precedence of the right to substitute. The friends of an article have always the right to perfect it before it is in order to substitute anything in its place. This substitution is an amendment of such a sweeping character as to preclude all amendments to the original proposition. It is universally the rule that the friends of a measure have the right to perfect it before it is in order to substitute.

Mr. BIGLER. I think my friend from Lycoming is mistaken in his view. It is perfectly competent for the Convention to go into committee of the whole for the purpose of substituting matter in place of that which is now the text before it. That has been the practice here, and it is clearly the right method of procedure, so far as this body is concerned. It is the broad right of the Convention to amend or substitute as it sees proper.

The PRESIDENT. The article is before the Convention, and the delegate from the city moves to strike out the entire article and substitute what will be read. That motion is in order. Heretofore, on a certain occasion, the late President of this Convention, Mr. Meredith, stated the rule as the gentleman from Lycoming has suggested, and I am not certain that it was not acceded to.

Mr. ARMSTRONG. The Chair will indulge me in a single word on the question of order. The Convention will see in a moment the necessity of it. There are certain verbal corrections which ought to be made in the article before the House can intelligently pass upon the

propriety of rejecting the proposed measure. It is competent then for the friends of that measure to move for its perfection. Although it is in order to move a substitute, the question upon the substitute cannot be taken until all the amendments of the article before the House have been passed upon.

Mr. HOWARD. I rise to a point of order. I understood the President to decide that the motion to strike out and substitute was in order.

The PRESIDENT. I did.

Mr. CHURCH. That is enough.

The PRESIDENT. Do you want to appeal from that decision?

Mr. HOWARD. I do not want to appeal from it. I am satisfied with it. I say that the delegate from Lycoming is out of order.

The PRESIDENT. The question is on the motion to strike out the article reported by the special committee and insert the report of the Railroad Committee as amended.

Mr. HOWARD. Let it be read.

The PRESIDENT. It will be read.

The CLERK read the proposed substitute as follows:

SECTION 1. Any individual, and any partnership or corporation, organized for the purpose, shall have the right to construct and operate a railroad or canal between any two points in this State; any railroad may intersect and connect with any other railroad, and may pass its cars, empty or loaded, over such other railroad, and no discrimination shall be made in passenger or freight tolls and tariffs on persons and property passing from one railroad to another, and no unnecessary delay interposed in the forwarding of such passengers and property to their destination. The Legislature shall, by general law prescribing reasonable regulations, give full effect to these powers and rights.

SECTION 2. Every railroad or canal corporation organized or doing business in this State, shall maintain an office therein, where transfers of its stock shall be made, and books kept for inspection by any stock or bondholder, or any other person having any pecuniary interest in such corporation, in which shall be recorded the amount of capital stock subscribed or paid in, and by whom, the names of the owners of its stock and the amounts owned by them, respectively, the transfers of said stock, and the names and places of residence of its officers.

SECTION 3. The property of railroad and canal corporations, or other corporations of a similar character doing business in this State, and of other joint stock companies now existing or hereafter created, shall be liable to taxation, and the power to tax the same shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

SECTION 4. No corporation engaged in the transportation of freight or passengers in or through this State shall make any discrimination in charges for the carriage of either freight or passengers of the same class between or against the people thereof, and no special rates or drawbacks shall, either directly or indirectly, be allowed, excepting for excursion and commutation tickets. Reasonable extra rates within the limits of the charter of a company may be made in charges for any distance from the place of shipment not exceeding thirty miles.

SECTION 5. No railroad, canal or other corporation, nor the lessees, purchasers or managers of any railroad or canal corporation, shall consolidate the stock, property or franchises of such corporation with, nor lease, purchase, or in any way control any other railroad or canal corporation, owning or having under its control a parallel or competing line, nor shall any of the officers of such railroad or canal corporation act as an officer of any other railroad or canal corporation owning or having the control of a parallel or competing line; and the question whether railroads or canals are parallel or competing lines, shall always be decided by a jury in a trial in open court as in other civil issues, according to the course of the common law.

SECTION 6. No incorporated company doing the business of a common carrier shall, directly or indirectly, prosecute or engage in mining or manufacturing articles for transportation over its works, nor shall such company, directly or indirectly, engage in any other business than that of common carriers, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business; but any mining or manufacturing company may carry the products of its mines and manufactories on its railroad or canal not exceeding fifty miles in length.

SECTION 7. No president, director, officer, agent or employee of any railroad or canal company shall be interested, directly

or indirectly, in the business or transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company.

SECTION 8. All railroads and canals are declared public highways, and all individuals, partnerships and corporations shall have equal right to have persons and property transported thereon, except as above excepted, and all regulations adopted by the companies owning, controlling or managing such railroads or canals, having the effect of hindering or discriminating against individuals, partnerships or corporations, except as above excepted, in the transportation of property on such railroads and canals shall be void, and no railroad corporation, nor any lessee or manager of the works thereof, shall make any preference in their own favor or between individuals, partnerships and companies shipping and transporting thereon, in furnishing cars or motive power.

SECTION 9. All discriminations made by railroad companies, being common carriers, in their rates of freight, or passage over their roads, in favor of transportation companies or others engaged in transportation, by abatement, drawback or otherwise, are hereby prohibited; and all contracts made with any transportation company or others engaged in the business of transportation, for carrying freights or passengers over any railroad within the State, at higher rates than those agreed upon by and between said railroad companies and transporters, are hereby declared void.

SECTION 10. No railroad company shall grant free passes or passes at a discount, to any person except officers or employees of the company.

SECTION 11. No street passenger railway shall be constructed within the limits of any city, borough or township, without the consent of its local authorities.

SECTION 12. No railroad, canal or other transportation company, in existence at the time of the adoption of this article shall have the benefit of any legislation by general or special laws, except on condition of complete acceptance of all the provisions of this article.

SECTION 13. The existing powers and duties of the Auditor General in regard to railroads, canals and other transportation companies, except as to their accounts, are hereby transferred to the Secretary of Internal Affairs, who shall

have a general supervision over them, subject to such regulations and alterations as shall be provided by law; and in addition to the annual reports now required to be made, said Secretary may require special reports at any time upon any subject relating to the business of said companies from any officer or officers thereof.

SECTION 14. The General Assembly shall enforce by appropriate legislation the provisions of this article.

Mr. COCHRAN. Mr. President: The presentation of this proposition which is now pending before the Convention raises a square issue and a fair issue which gentlemen can meet and determine at once if they are disposed to do so. The proposition which is now pending before the Convention and proposed to be submitted in committee of the whole, is the proposition in substance which was adopted by the Convention on several previous occasions, after it had been thoroughly considered and discussed, and it comes up now in competition with the proposition which has been submitted here this morning by the committee of seven who were appointed on Friday last.

Now, sir, the proposition which is submitted, as I have said, is in substance the same as the report of the Railroad Committee as modified on third reading, and the alterations in it are not material or essential. There are in fact no changes in the first three sections of the article except that the word "individual" is again transferred to the first line of the first section as it was originally, and the punctuation changed. In the fourth section, that section which was discussed here and which was so strenuously debated and opposed, the alteration is to insert in the third line after the word "passengers" the words "of the same class," so as to read:

"No corporation engaged in the transportation of freight or passengers in or through this State shall make any discrimination in charges for the carriage of either freight or passengers of the same class, between or against the people thereof."

And then the words "or make a higher charge for a shorter distance in the same direction than for a large distance, including such shorter distance," are stricken out. The words "from the place of shipment" are inserted in the eighth line after the word "distance," and the words "thirty-miles" are inserted in place

of "fifty miles" in the same line. In the fifth section there is no alteration except the word "or" between "parallel" and "competing" in the eighth line, which is evidently proper and had been overlooked; and the words "according to the course of the common law" are stricken out and the words "in open court as in other civil issues" inserted in place of them. There is no change, I believe, in the sixth section whatever. The seventh section is exactly that which was inserted in the report after it was reconsidered with the exception that the words "except as a stockholder in said company" are stricken out. Those words make the construction of that section uncertain. The substance of the section was that no officer of any railroad company should engage in transportation over the lines of said company, but the words "except as a stockholder in said company" or "be interested in such transportation except as a stockholder in said company," left it open to this construction: that an officer of a railroad company might be a transporter as a stockholder of the company, though not as an officer. There is no necessity for it. There is no necessity for protecting the rights of officers of a company. They have their rights to dividends, their interest in the property of the corporation, without being affected at all by this provision; and it was unnecessary to keep those words in, and only made the construction more doubtful and uncertain.

With these exceptions there are few or no changes, probably no changes, in the article as it passed third reading. I think there are none. Not having the memorandum before me I cannot state distinctly, but I believe all the rest of the article is in words and letters the same as it was passed on third reading. The tenth section, with regard to free passes, is included in this proposed amendment along with all the rest.

Now, Mr. President, it is impossible within the compass of ten minutes which are allowed to a speaker in this House to talk with very great deliberation or to discuss satisfactorily the differences between the report of the committee of seven and this report; but, sir, there are two or three distinct and plain differences on the face of the report. The first section of the report of the Railroad Committee is entirely superseded by the report which was brought in here this morning and a new provision inserted; and I

contend from the reading of that report, instead of granting a power to individuals, and to corporations and associations organized for that purpose, to construct a free railroad law this committee have submitted the propriety and the power of authorizing that thing entirely to the action of the Legislature, a body which never has done it yet and never will, under the influences which control its action, grant any such power. Whether by accident or design, whether from the fact that this committee was required to do in two working days or less what required another committee three months of sedulous labor to do, I do not know; but that is the result of their action on this matter.

But, further, the fourth section of this article is made of no real effect and presents no real protection to the people of this State against the unjust discrimination of which they complain. What does it do? Instead of fixing some distinct, definite rule by which the matter shall be regulated, a rule which was adopted by this Convention, they come in with the words "undue and unreasonable discrimination," and that is all they want to give us. They want to submit that question entirely to judicial determination—to grant to the courts of this Commonwealth a power to construe those words just as they please. And, sir, if we are to follow the precedent which has been set in the Supreme Court of one of the States of this Union then the construction would be that any act passed under this provision of this Constitution which undertook to regulate discriminations on a fair basis as we contend would be unconstitutional. Such was the decision in Illinois under words which I contend are simply equivalent words to the words used by this committee. It is not worth while to refer us to decisions of the English courts. I stand upon the decision of the American courts, and I say that the decision of the Supreme Court of Illinois was a decision that any attempt under such general, loose, vague language as this to prescribe a rule distinct and adequate for the control of railroad corporations in the matter of discriminations was not constitutional. It was not even submitted to be determined as a question of fact by the jury, but the court said that the law was unconstitutional because its provisions with regard to a shorter and a longer distance might in some cases not be unjust and unreasonable, and the question was not submitted to the jury.

Mr. President, it has pleased this committee also to leave out of this article which they have reported a provision which has, I undertake to say, never yet been omitted in any general law on this subject, and I do not remember ever to have seen any special charter which omitted it; and that is, that these railroads should be public highways.

The general law of your State, sir, now prescribes that, and every law on the subject that I have ever seen, according to my recollection at this time, prescribes the same thing, that they shall be public highways. Their use as public highways of course is to be modified by the circumstances and the method of transportation upon the road; but the public highway right of the people on those roads is a right which should be preserved distinctly in your Constitution. It should not be permitted to be frittered away by legislative interposition; nor should we now at this stage turn around and abandon the entire policy of our Commonwealth on this subject, and distinctly omit out of our Constitution the provision that these railroads shall be public highways.

Further, sir, there is a section in the amendment moved by the gentleman from Philadelphia, which prescribes not merely that books shall be kept in this State and an office open, but they shall be kept there for a special purpose; that stockholders and bondholders and parties peculiarly interested in those roads should have the right to go there and inform themselves and know what those books contain. Why, sir, is it possible that the stockholder of a railroad company, who is a proprietor and owner, shall not be allowed to see or have any knowledge or information with regard to the conduct and management of his own property? Are you going to exclude him from a right so plain, so just, so indispensable to him in order to enable him to protect his rights? And yet that is what this committee gravely proposes to do by striking out of that section the provision which requires a right of this kind to be secured to stockholders and bondholders and others who are interested in the business of the corporation.

Further, Mr. President, and as a material point, it will be observed that this committee, appointed to revise and modify, has chosen to omit out of their report a substantial part of the original report which was committed to them for that purpose. I have yet to learn that

the power to modify includes a power to destroy, to take out of the subject-matter committed to a committee that which is substantial and material, and I may say further, a matter which was time and again acted upon and voted into that report by two-thirds of all the members voting in this House. They have stricken out the proposition which prohibits the granting of free passes on railroads, that infinite source of demoralization and corruption, political and, I might almost say, social, throughout this Commonwealth; a source of robbery to the stockholders and a source of injustice to the community at large.

I hope that this Convention will not agree to adopt as a substitute for the original report a proposition which, under the power to modify, has emitted that which is a substantial part of the original report. I am very sure that if the question had been presented in this body fair, square and direct, shall this committee have the power to strike out this part of the report? this Convention would say by a two-thirds vote, as it said before, "no, they shall have no such power."

Now, sir, it is impossible for me in the short time I have been permitted to look at this report, for I first saw it about the time this Convention met this morning, to go through the whole of its details. I have pointed out grave, substantial, significant matters in this report, matters which ought not to be permitted to pass this Convention; matters which I apprehend this Convention will not pass when they fully understand the report.

We have an ancient classic fable and story of the founder of Rome, whose nurture in his childhood was supplied to him by a wolf that suckled him. It seems to me that the report of this Committee on Railroads has been subjected to the same kind of nourishment; and it comes back to us just in the form you might expect it to come: plausible on its face, drawn up with the expectation that the committee would be able to convince this body that they have made no substantial alterations in the report which this Convention has solemnly adopted. But you see, sir, that the alterations are substantial; and that is always and inevitably the case when you allow a measure to be placed in the hands of those who are opposed to its provisions. Not one known, recognized friend of that article was on the committee. They were *anathema maranatha*, "cursed with a curse," from a high place

before this committee was appointed; and the result has been just what gentlemen might expect: that that report would be torn limb from limb, and with its flesh plucked from it and its vital organs destroyed, would be presented a bald skeleton and its *disjecta membra* scattered abroad through this Convention, to be adopted instead of the living organism, with vital force and efficiency in it, which was committed to the charge of this committee.

Mr. President, if I were opposed to any railroad reform I never would vote for this report. I never will consent to be a party in any way to the presentation to the people of this State of that which, if I may not properly characterize it as an imposture, I regard simply as a delusion and a snare, "a paltering in a double sense," "keeping the word of promise to the ear and breaking it to the hope." Rather than that, sir, neither to it nor to the instrument in which it is contained shall I subscribe my name; nor will I sanction it with my voice, nor will I support it with my vote.

Mr. BAER. Mr. President: I feel it incumbent upon me to say a word before I cast my vote on the pending proposition, for the reason that it is well known to members of this Convention that I was opposed to several sections in the article reported by the Committee on Railroads. I opposed section four all along, as being entirely too severe upon the railroads, but approved of nearly everything else in the article, as it was finally amended. I still am free to admit that the article, with that section in it, goes too far against railroads; but when I find that the report of the committee of seven, to whom was referred that article for the purpose of emendation, sins a great deal worse against the people, and is favor of corporations, than the other did against railroads, I must pause before I can vote to substitute this for the original article.

The article passed upon by the Convention provided a free railroad law, that would make it possible that there should be some rivalry as against large corporations in the future, while this report makes a free railroad dependent upon the will of a future Legislature, and that Legislature may be at the mercy of a great monopoly. It is not up to the demands of the people.

I have no objection to the second section of this report as it stands; but the third section, which is made to take the

place of section four of the original article, is of such a character that you can drive a six-horse team through it, and all in favor of the great corporations and against the individual. To say that the words "undue or unreasonable discrimination" are a protection in favor of the individual, is to say what this Convention all along have said they did not believe to be possible. They did not believe that it was practicable or right that the construction of what was legitimate, fair or unfair discrimination, should be left couched in such loose terms as these. For that reason, while the section in the original article is wrong, this is equally wrong; and if I am to be wrong, if I am to choose between two evils, I prefer to err in favor of the people and not in favor of corporations. I shall therefore vote against this substitute with the hope that section four of the original article may still be amended so as to do justice to the railroads and the people.

But when you come down to section four of the article submitted as a substitute by the select committee, you find there concealed the serpent whose coils will crush the people. It reads in this way:

"No discrimination between transportation companies, or parties engaged in the *business* of transportation, shall be made, either by abatement, drawback, or otherwise; and no railroad or canal company, nor any lessee or manager thereof, shall make any preferences in furnishing cars or motive power."

As far as that goes it is right; but where is the provision forbidding discrimination against the individual? This section provides that there shall be no discrimination against those persons whose business it is to be engaged as common carriers; but if I, not making it my special business, desire freight transported over a railroad, I may be discriminated against to the extent of driving me out of the market; and that, too, under this article which professes to be such a great improvement on that which was reported by the Railroad Committee. I shall never vote for a proposition that will crystallize the evils of these inside corporations as that section does. As compared with the section in the original article, it is, in my opinion, without merit.

I have no objection to section five of this report.

Section six comes far short of what was provided for in the other article. It provides that the companies shall maintain an office in this State where their books shall be kept; but it does not provide that the creditor shall have the right to go there and see how the business is conducted. It is true the stockholder or bondholder may do so, but there may be a creditor whose interest is ten-fold that of any bondholder or stockholder, and yet he is forbidden an examination of those books.

To section seven I have no objection; but when you come to section eight it would seem as if it were intended to perpetuate great monopolies, to make it possible that railroad companies may be incorporated with power to manufacture and to mine as they please. What is its language?

"Railroad and canal companies shall not engage in any other business than that of common carriers"—

So far I agree with it—

—"Except in such manufactures and productions as are necessary to the equipment, maintenance and operation of their works."

If there were some other words in it that would limit or qualify that provision I would go for it; but, sir, what is necessary to the maintenance of their works? Everything that is necessary to enable that corporation to live. If they have coal lands it is necessary to permit them to mine them, in order that they may realize money enough to maintain the life of the corporation. And in this way the extent of its operations will only be limited by its own will. I am not in favor of a restriction that restrains them from the legitimate business of manufacturing cars and locomotives or mining coal for their own consumption; but this permits their manufacturing and mining to an unlimited extent. Is it the sense of this Convention that the committee to whom this subject was referred should go so far? I trust not.

Then as to the other sections, I would have no special objection; but was it in the interest of the people that they struck out the provision that prevented the issuing of free passes? The masses of the people have demanded and are demanding the abolition of free passes. Why is it that the railroad interests here should insist on keeping out of the Constitution a provision which would prevent them from giving away free passes? If there

is any reason for their keeping out of this instrument a clause which, it has been avowed on this floor, will save them millions every year. I would like to know what it is that induces the railroad interests to desire the destruction of that section? It must be because these free passes can be used for unhallowed purposes.

Will this Convention undo all that it has done, and pass this article reported from the special committee? I trust not. Rather let us take that which we have labored over so long. If there is any amendment to be inserted, let us put it in afterwards. But let us now stand by the action of the Convention. For these reasons I shall vote in favor of going into committee of the whole to substitute the original article as it was amended, and at the proper time will vote to amend it.

Mr. BUCKALEW. I shall confine what I have to say on this subject to a reply to the chairman of the Committee on Railroads and Canals, (Mr. Cochran,) who proposes to dispense with the results of the reference, which was ordered by a majority vote of the Convention. What is the fact with reference to our proceedings upon the third reading of this article? The article in the form in which we were called to give a final vote upon it was not acceptable to a majority of the Convention, and the majority said so, and referred the article to a special committee for the purpose of revision and modification, in the hope that it might assume a form which would be acceptable to them, and ultimately acceptable to the people. The gentlemen appointed by the Chair to perform this duty under instructions, have performed it, and their report is before the Convention for its consideration. Now it is moved to undo this, and to accept entire the article which was not acceptable and which the Convention referred. I think this course of procedure is inadvisable, and that for several reasons.

In the first place, it is not the way to do business, to go back and overthrow what has been deliberately determined, and stultify ourselves with reference to the course we shall pursue.

In the next place, it is not advisable to take this course because thereby the Convention will lose all that is valuable in the labor of the select committee on this subject, who have had the article before them in what was confessedly an imperfect form. The proper mode of proceeding, in my judgment, is to con-

sider this article as reported from the select committee, and if any part of it be defective to amend it; to retain what is good and strike out what may be objectionable, and add such new matter as the Convention may think necessary to perfect the substance or form of the article. Therefore, by a rejection of this pending amendment we have left open before us the whole question without embarrassment or difficulty, and by proceeding to consider and amend it, we will preserve our self-respect in the transaction of public business.

Mr. HOWARD. I want to ask the delegate one question.

Mr. BUCKALEW. I must decline for the present. I will answer when I finish what I have to say on this point.

The chairman of the Committee on Railroads and Canals (Mr. Cochran) objects to the report of the special committee upon certain specific grounds. If these objections are well-founded, it does not follow that we ought to take the course he proposes, to strike out the whole report and restore the imperfect article. He only lays ground for particular amendments and changes, which it will be perfectly competent for him or any other member to propose after this pending motion shall have been rejected.

In the first place, he objects to the first section of the reported article, because it leaves it in the power of the Legislature to grant or withhold railroad privileges from associations of the people. It is not so. The objection is misconceived; it is wholly groundless. Whether these words to which he alludes are retained or not, namely, "subject to such regulations as are or shall be prescribed by law," that power will always remain in the Legislature. If they are struck out of this article the only effect will be that the power of the Legislature to limit the creation of corporations will be increased by their omission. The reason for inserting these words are these: It was that the corporations and associations authorized to build railroads without limit in this State, to connect with railroads in adjoining States at the State line, should have the absolute right to avail themselves of all the existing laws of the State. Otherwise the Legislature might withhold from them these facilities that now exist. We have a general railroad law now in our State; but the Legislature must grant particular charters to enable the grantees to use these provisions. Under this section any

association of men uniting together without a legislative charter can use these facilities of existing law. Then it is provided that these associations shall have the advantage of any future legislation which may be enacted by the sovereign power of the Commonwealth through the General Assembly. If any gentleman desires that these words with reference to legislation shall be struck out, certainly the committee that made the report has no great objection; but I insist that it ought to be retained because the provision will afford facilities and guarantees to a free railroad system, and in that sense it was proper that it should be reported and it is proper that it should be retained.

Again, the gentleman objects that these proposed railroads are public highways, and are not declared to be so in this report. Well, Mr. President, all railroads in this State, except lateral roads, are public highways, and must be so everlastingly; unless on the principle that they are public highways the companies could not construct their roads, unless on that principle, they could not get the right of way and of passage to construct a railroad anywhere in the Commonwealth. For my part, I am perfectly willing that these words should be inserted in this first section. That was my own opinion, although I suppose, on the ground that they were not strictly necessary the committee did not report them. But that can be amended if the gentleman desires, without objection. If they are not put in, however, anywhere in this article, all these railroads, present and future, will be public highways, and it will be impossible for the Legislature to create them on any other principle, if they should intend to do so. They cannot get the right of eminent domain granted through the State, except on the principle that they are public highways and public institutions for the common advantage of all the people of the State.

Then the gentleman objects to the seventh section, which was written by me and was accepted by the Convention before. Now, the committee has retained that section literally, word for word, with the exception, as I understand it, of the insertion of the words, "railroad and canal companies," in one case, where, if they were omitted, they would be implied. The special committee have simply repeated the expression, "railroad and canal companies," in one part of the section, instead of leaving them to be im-

plied. Whether they are in or out, the section remains precisely as it was adopted by the Convention.

The gentleman from York again objects to the change in the fourth section, in which the special committee have inserted the words, "undue or unreasonable," as to rates of charge by railroad companies.

Well now, sir, that is of course a question for the decision of the Convention. Nobody is concluded by the report of the committee on the subject. It is open to motion and debate, and anybody that desires to test the sense of the Convention by moving to omit these words can get a distinct vote upon that question, and that without the adoption of the present amendment. Of course, the committee contemplated that the Convention would pass upon that section of their report, and that after due consideration it would be decided one way or the other, as the majority should choose.

Again, objection is made to the sixth section. This section requires that all these companies connected with common carrying in this State shall keep offices within the State, public, accessible offices, and that they shall keep all their books at these places, and that is the whole of the provision. The gentleman desires to add that stockholders and bondholders and creditors shall have a right to examine these books. Well, if the gentleman wants these words added, lumbering the section with unnecessary matter, and make a motion of that sort, I shall not object if the Convention gratify him. But, if he will turn to the existing laws of the State, he will find that we have adequate provision by statute law upon this subject in reference to corporations in the State. If he desires to supplement those existing statutes, which there is no likelihood will ever be repealed, by details in the Constitution, it is merely a matter of taste and not of substance, and I, for one, will not object, if the body chooses to gratify him. The only difficulty is, that if we put any particulars of this kind in the Constitution it will seem to imply a restriction upon the Legislature from adding other conditions to it, and I think it would be better not to attempt these details of legislation, but if the Convention think otherwise, it can be added.

The gentleman objects to the omission of the section relating to free passes. That objection is no reason why the pres-

ent motion should prevail, restoring the whole of the present imperfect article. It will only justify a motion to amend by adding that section, and I will say to the gentleman that I will very cheerfully vote with him to add the section which has been omitted by the special committee. The gentleman from Clearfield (Mr. Bigler) and myself, although members of this special committee, did not agree with the decision of the committee on that subject, and we frankly informed our colleagues that upon the floor of the Convention we should feel at liberty to vote to restore that section, or some other section having a similar object. The gentleman from York can command our votes at least upon any motion appropriate to the purpose of perfecting this article by inserting that provision.

I have now gone over all the objections which the chairman of the Committee on Railroads and Canals has stated to this report made by the select committee upon this important subject, and I think I have demonstrated that none of these objections justify the adoption of the present motion before the Convention, which is to throw aside all the work of this select committee, all the value that may attach to their perfecting of this article and take bodily the old and imperfect article which was before condemned. That that article is imperfect all the members of the Convention know, all the people of the State who have examined it know. It is broad, loose, ill-digested and about twice or three times as long as it ought to be to cover the subject-matter to which it relates; and the amount of doubt, difficulty and litigation which are colled up in it no man can conceive. It has good features, but many of those things in it which are good, proper and legitimate for adoption are so worded, are so combined together, that they excite causeless and unnecessary hostility and will impede the prompt and common acceptance of our work by the people of the State.

Now, what has this committee done? One thing must be granted; they have condensed what is substantial in this article into one-half the limits in which it was before contained. They may have precise and definite numbers of provisions which were loose, indefinite and uncertain. I deny that in the main they have impaired the strength, vigor and vitality of this article. I insist that in most respects they have added energy and force to this article as well as conciseness to its

terms, and have made it more acceptable and more fit for acceptance by the people of the State, and in the few particulars to which I have referred, and which are capable of separate consideration and amendment, if the Convention chooses, it may be perfected and changed by the Convention upon a few simple motions.

What I insist upon is that the greater part of the article as reported by this committee is fit for acceptance, and that it ought to be accepted mainly in the form in which it is reported, and that upon particular points, on which gentlemen have objections, specific amendments should be proposed.

Mr. HOWARD. I rose to ask the delegate from Columbia a question.

Mr. BUCKALEW. I beg pardon; I had forgotten.

Mr. HOWARD. It is this: Whether if the motion prevails and the old article is substituted, it will not stand before the Convention precisely as it did before it was referred to the committee, and be open to any amendment the Convention is willing to make?

Mr. BUCKALEW. And we shall be subject to all the difficulties we had before in attempting to break it into form.

Mr. HOWARD. Will you answer the question I put: Whether it will not be open to amendment, any amendment the Convention think proper to make?

Mr. BUCKALEW. Certainly.

Mr. CAMPBELL. Mr. President: The gentleman from Columbia (Mr. Buckalew) does not consider the course adopted by the chairman of the Railroad Committee as the proper one to pursue. He says that if we agree to the motion now pending we shall reject the deliberate work of a committee of seven of this body appointed upon the subject; he forgets that he himself voted to reject the deliberate work of a committee of fifteen of this body appointed upon the subject. He says that if we agree to the motion of the chairman the Convention will reverse its former action and will stultify itself; he forgets that he himself voted that the Convention on Friday last should reverse its action and should stultify itself. He says that the railroad article as passed to third reading was unacceptable to a majority of the Convention. I deny that. In a vote of eighty-eight, little more than a quorum, by a bare majority of eight, the vote standing forty-eight to forty, this special committee was appointed. The preceding day, with ninety-two members

present, the vote was fifty-seven to twenty-five, over two to one in favor of the adoption of the article; and if the friends of the article who were absent on the second day had been present no such committee as was appointed on Friday last would have been authorized.

The gentleman says further that if this motion prevails we shall have to consider the railroad article as we had it before us last week. So we will. He objects that in it there is too much "detail of legislation." That is no objection to come from the gentleman from Columbia. Turn to the article on suffrage and elections, and what do we find? Several of the sections of that report—sections of which the gentleman from Columbia is the author—contain more detail of legislation than any of the sections of the railroad article; that they are longer even, and contain more words to express a simple idea, than any of the sections of this railroad article, and yet he is the one who objects on the ground that there is too much "detail of legislation." I say he is the last man in this body that has a right to object to it on this account; he is the last man in this body who should declare that the Convention will stultify itself by voting down the report of the special committee. He is one of the two men who are responsible for the action of the Convention the other day, when in a thin House it stultified itself by reversing its previous action upon the railroad articles and sending it to a committee of seven.

Now, I hope that delegates will consider this matter fairly; that they will give the proper weight to the arguments which have been delivered by the chairman of the Railroad Committee (Mr. Cochran.) That gentleman has shown wherein the article as reported from the special committee is a failure. I venture to say that if we had referred the railroad article to seven directors of the Pennsylvania railroad company, with the understanding that they must report something, they would most probably have reported an article similar to the one now before us. The report is unfair; it is unjust to the people of the Commonwealth. As is shown by the gentleman from Somerset, (Mr. Baer,) it leaves out some of the most valuable provisions of the old article. It leaves out many of the provisions that would be received with favor by the people. It retains all the provisions that might be construed in favor of the corporations.

As my time is limited, I will now merely advert to one section of the special report, viz: section eight:

"Railroad and canal companies shall not engage in any other business than that of common carriers."

So far our old report went, no further. This committee has inserted:

"Except in such manufactures and productions as are necessary to the equipment, maintenance and operation of their works."

Now, what is the effect of that clause? It renders nugatory the whole provision. If the mining of coal by the Reading railroad company can be construed by the courts as necessary for the maintenance and operation of their works, what is the use of passing such a section as this? Do we wisely to declare the principle that railroad companies shall not act in any other capacity than that of common carriers? If we do, let us insert the old provision; do not let us add to it a proviso that will blot out the principle and render the practical operation of the Constitution, in this respect, of no avail. If we wish to restrict and limit the Reading railroad company or any other corporation engaged in the mining of coal or iron, or in the manufacture of products to be transported over their roads, to its legitimate business of serving the public as common carriers, we should put in the Constitution a plain provision that no court can construe in its favor, and that no corporation, by means of judicial construction, can evade. Section eight allows the courts—and unfortunately it has been the case within the last few years that the courts are too willing to carry out the behests of railroad corporations—it will allow the courts to construe it so as to permit railroad companies to engage in any business they desire, on the plea that it is necessary for the operation and maintenance of their works.

If my time permitted I could call attention to various other defects in this report, but no doubt gentlemen who will follow me will do it instead. I therefore will close with the hope that the motion of the chairman of the Railroad Committee will prevail, and that the report of the original article, which was carefully considered month after month, which was before the people for consideration during our recess, with which we are all familiar, will be adopted.

Mr. BIDDLE. Mr. President: If I thought that either of the prominent dis-

advantages which were touched upon by the gentleman from Columbia would follow from our voting to take up now, by way of substitute for the report of the special committee, the article as it stood at the time of its committal to that committee, I should vote in the negative on this motion; but as I do not think so, as I feel satisfied that we shall be doing wisely by retaining before us the original article, I wish to state a few reasons for the vote that I am about to give. In doing this it will be necessary to go back a little to what took place last week.

After very long, very earnest and very deliberative consideration we reached a conclusion that was embodied in the vote by which this article was adopted. It is very true that although it received a large majority of votes, every detail in the article was not acceptable to every man that voted for it; but it was more acceptable in the shape in which it was adopted than any substitute that could have been proposed for it, and we remained satisfied. Then what took place? The passage of the article was reconsidered, and in the hope—I thought then, I am satisfied now, the vain hope—that it could be made more acceptable, a majority of this body voted for the reference; but in voting for that reference no man is entitled to say that it voted to accept without criticism any report which might be made by the committee to which it was referred. The action of the Convention in agreeing to that reference was purely tentative, experimental; it meant nothing more than this: "The article is not absolutely acceptable to the House; we have spent a great deal of time over it; it is possible that we may receive from the hands of a committee an article that may be more acceptable." But I deny emphatically, (and I am sure I am speaking the sense of the House when I say this,) I deny that by that vote it agreed to take as an efficient substitute anything which that committee might lay before it; and it is only necessary to look for a single moment at what the action of that committee might have been. It has resulted in the project that is now upon our table, but it might have resulted in a very different one; and it strikes me that it is self-justifying ourselves to say that by refusing to accept the report of the committee to fall into any inconsistency, for the simple reason that we never could have known in advance what the action of the committee would be. We were to receive

its action as merely experimental, and if we felt upon a fair consideration of it, side by side with the original article, that it less expressed the sense of the House than the original article, we must perforce reject it. Therefore we fall into no inconsistency by voting affirmatively to take up the original article in place of this.

So much for that branch of the argument; now as to the other: Are we rejecting any substantial benefit which is conferred by the substitute reported by the committee, by going back to the original article? I think not. The great and prominent points of departure have been so well called attention to by the gentleman from York, the chairman of the Committee on Railroads, (Mr. Cochran,) that I do not intend to go over them, but I wish to refer to one or two sections in order to point my argument.

Great merit is taken—and I am not disposed to deny that there is a certain amount of merit in that direction—by a member of the committee who has spoken on the subject, for the brevity of the article reported by the special committee in contradistinction to the verbosity of the original article. Now, in order to appreciate the full force of that laudation, let us see what we get by brevity. It is a proverbial saying that by attempting too much brevity we generally become obscure. *Dum brevis esse laboro obscurus sto.* I take up the sixth section of the reported article to show that, as it stands, the whole vitality of the section for which it is a substitute is taken out, and the two lines reported here as section six might just as well disappear altogether from the article, and then you might hug yourselves in the comfortable reflection that by so doing you had made the article still shorter by two lines.

What was the object of the original section, for which section six is a substitute, and which I think in the original article is section two? It was an object appealing so directly to the sense of justice of every one here that I cannot conceive why it ever should have been objected to. It was this: "Let every man who stands either in the relation of proprietor or in that higher character of creditor to any of these corporations, know exactly from the books of the company itself what is going on." This proposition was discussed at very great length here, and was by a very large vote adopted. Now, what does this section six of the substitute give in its place? It tells you, what

I suppose everybody knew before it was written there that every transportation company shall keep a stock ledger and other books in which its business transactions shall be recorded. It was hardly worth while writing that in an article of the Constitution, unless it meant something more; but the words "subject to the inspection of every stockholder and creditor" are left out. The gentleman from Columbia says "that is a matter of unimportant detail it that is unnecessary to load the section down with, but if you want it add it." I differ from him entirely. That is the very point and essence of the original section. If it is to mean anything, it is not to tell us that corporations are to keep books, but that those books are to be subject at all times to the inspection of those who have a pecuniary interest in inspecting them.

This is only one instance; now I come to another in regard to which, while I differ altogether from the gentleman from Columbia, I say the article as reported does not reflect the sense of this House. I refer now to the omission of the much vexed section which is known as section ten, or the free pass section, of the original article. I have been at all times opposed to this section, but I have been in a small minority in this opposition. This committee must speak, if it speaks properly, the sense of the House; and although I should have been in favor of leaving out that section, it does not do for the committee to tell us that they left it out in order that it might be put in again. I understand the object of this reference was to obtain condensation where you could properly shorten, to get light where the language was obscure, but still to have re-presented to the House substantially that which had been its deliberate expression of opinion. I admit that the article as now reported is a great deal shorter; I admit that one omission receives my individual approbation; but I deny that in doing what it has done the report should receive the approbation of the House, and I therefore think it infinitely better to devote the remaining time which is left us to reconstruct, so far as it requires reconstruction, (and it is in but few particulars,) the original article framed with so much care, so much caution, so much intelligent labor, than to take this substitute of this committee. I do not mean to say a word in unjust disparagement of this report, for I have no such feeling. I believe these gentlemen

did all they could do in the time allotted them, but that time was altogether too short. Let us then make perfect that which has received so much consideration at the hands of this body.

I cannot understand the force of the argument which is addressed to us when we are told, "you are depriving yourselves of all the benefits which this report gives you, receiving as it has received the intelligent consideration and action of seven gentlemen for two days," when the effect of adopting it will be to nullify the considerate and intelligent action of the whole body of the Convention for many months. I contrast the labors of the one with those of the other, and I do not think it lies exactly in the mouth of any member of this committee respectable as it is, and devoted as I believe its members were to doing their duty, to tell us that all that we have done in the past is *nought*, and that all they have done in this interval, between Friday last and this morning, is *everything*. I shall therefore vote for the substitution of the original article in place of the one now reported.

Mr. ARMSTRONG. Mr. President: The very able discussion of the chairman of the Committee on Railroads, as well as that of the distinguished gentlemen from Philadelphia who has just taken his seat, ought to satisfy any member of this Convention that the work of the committee of seven has been well done. I apprehend that no one will question that both the standing Committee of the House on Railroads and the committee of seven devoted themselves to the consideration of this work, not only with assiduity, but with great care and with the sincere purpose of perfecting the article. When it was submitted to the committee of seven for the purpose of revision, that reference meant that they should examine it in all its parts, that they should eliminate what was tautological and useless, and that they should bring it to the smallest compass that was consistent with a distinct expression of the intentions of the Convention. When we came to the examination of the article we found it—and I speak with great respect to the gentleman of the Railroad Committee and to the deliberations of this House—crude in form, and objectionable in some of its features, which we proposed to amend and submit to the deliberate consideration of the Convention. When a thing is well and sufficiently expressed nothing is add-

ed to its force by amplification of expression. When I say, "I give you this orange," I add nothing to its force by adding "I give you this fruit of a yellow color, together with its skin and its pulp and its seed." When a thing is distinctly expressed it is best expressed. In this view let us look at the article as it stood before this Convention when the reference was made. I call attention to the first section. See what it embraces, how cumbersome and how crude! "Any partnership or corporation organized for the purpose, or individuals"—the words "or individuals" were inserted by the action of the House, not by the report of the Railroad Committee. So far, then, as their judgment was concerned, "individuals" ought to have been left out. If you look at the railroad law of the State, you will find that it requires at least nine persons to be organized into a company to construct a railroad. Such was the judgment of the Legislature. The committee could not conceive of any sufficient reason which would justify the Convention in declaring that an individual alone should be clothed with corporate powers to construct a railroad of indefinite extension and for any purpose whatever throughout the State.

But you will further find that the section provided for various other things besides the right to construct a railroad. Now what has the committee done with this section? We provide that "all railroad and canal companies shall be common carriers"—a declaration perhaps not needed, but one which being made is simply in the current of the common law, for all such companies are necessarily common carriers, but there was no objection to establishing it as a constitutional instead of a common law right.

Next we provide that "Any association or corporation organized for the purpose shall have the right"—so far as it agrees with the original article—"subject to such regulations as are or shall be prescribed by law, to construct and operate a railroad," &c. Does this differ from the original report? Leave out the middle phrase of the original section and it reads: "Any partnership or corporation organized for the purpose, shall have the right to construct and operate a railroad: * * * the Legislature shall by general law, prescribing reasonable regulations, give full effect to these powers and rights;" so then the Railroad Committee and the Convention both did pass in their judgment

upon the necessity of allowing the Legislature to provide for the mode of regulation; but we have made the right to build a railroad a constitutional right, which the Legislature cannot take away. We have provided that any persons may build a railroad in the State under regulations prescribed by law; and that is the precise section as it stands in substance as voted upon by the Convention. We have therefore made no change in that regard.

But does anybody want any one to have the right to build railroads without regulation? This is one of the most important interests of the country; and is every man to have the right to build railroads without regulation? That would be the argument which the converse of the argument would imply.

Mr. BEEK. Will the people have any such right except as conferred by the Legislature?

Mr. ARMSTRONG. I do most emphatically say that the right is not conferred by the Legislature, and cannot be taken away by the Legislature. It becomes, under this section, a constitutional right, and can only be regulated, not destroyed, by the Legislature, neither can it be impaired by the Legislature. The right to construct is fixed irrevocably by constitutional provision, and the right of regulation is a necessity which I apprehend that no intelligent man in this Convention ever intended to take away.

Mr. S. A. PURVIANCE. Allow me to ask the gentleman a question. If that be the meaning of the words in the first section, "subject to such regulations as are or shall be prescribed by law," of what use is the eleventh section, which declares the same thing?

Mr. ARMSTRONG. The eleventh section is applicable to the entire body of the article, and a similar provision is also in the fourteenth section of the original article as referred to the committee.

Mr. S. A. PURVIANCE. But the gentleman will observe that this comes from a committee of abridgment, and therefore we expected they would make it more concise.

Mr. ARMSTRONG. We have made it more concise, as the gentleman will see by comparing the two articles, which ought to satisfy him on the point of abridgment, for his article contains four pages of closely printed matter, and ours contains less than one.

But, sir, I will say to the gentleman, for I know him to be a lawyer of excellent discrimination, that he will not undertake to say that the right to build a railroad does not become, under this article, a constitutional right which the Legislature cannot take away.

Mr. S. A. PURVIANCE. I undertake to say, in answer to the gentleman, that in my judgment, under any construction to be given to the first section, anything whatever done by the Legislature in the way of clogging it would stand the test of judicial interpretation.

Mr. ARMSTRONG. The gentleman does not answer. I put the distinct question to him and I challenge him as a lawyer on this floor to say whether the right to build a railroad is not a constitutional right under this provision.

Mr. BEEBE. I should like to ask the gentleman, then, why not strike out the words, "subject to such regulations as are or shall be prescribed by law," and leave the general provision to stand by itself?

Mr. ARMSTRONG. Those words are inserted for the reason that there is no necessity for leaving it open to construction. The committee preferred that the provision should be so explicitly stated that its meaning could not be questioned.

But, sir, let us look at the next section: "Every railroad company shall have the right with its road to intersect, connect with, and cross any other railroad, and shall receive and transport, each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination." The right to build a railroad is one thing; the right to connect is another thing; and the mode in which this latter right shall be exercised in the regulation of travel and traffic is an entirely distinct and different thing.

But, in this same original section which proposes to vest the right to build a railroad in language strong and scarcely in different terms from that which the committee of seven have reported, the Railroad Committee not only mix up the question of the management of a railroad, but they undertake to regulate the matter of the tariff of freights, for they say "no discrimination shall be made in passenger or freight tolls and tariffs." Now, if gentlemen will turn to the fourth section of this same article they will find that the fourth section again proposes to regulate discriminations in freights, and if they go still further they will find that the ar-

ticile again attempts to regulate freights in the eighth section, and once more in the ninth section. In all these sections, the first, the fourth, the eighth, and the ninth, there are distinct provisions, all of which have relation to the discrimination upon freights, and all of which we have consolidated. Does the gentleman from Allegheny wonder that we have reduced this article from four pages to one?

Mr. D. N. WHITE. Mr. President: I rise to a question of order. Is the ten minute rule now in existence?

The PRESIDENT. I indulged the first speaker on this question (Mr. Cochran) for thirty-five minutes, and I purpose, unless called to order to indulge the speakers generally on this question.

Mr. HOWARD. I hope that that course will be pursued, and that there will be no limit to debate.

Mr. ARMSTRONG. I am personally quite willing to submit to the order of the House, but I deem it unwise to limit debate on this question, on either side, as it is one of great importance. ["Go on."] I thank the Convention for its permission, and I will proceed.

In the first section of the article reported, as I have said, we have defined the right to build railroads. In the second we have provided for the right to intersect, connect with and cross other railroads, and we have added that which the standing Committee on Railroads omitted, the right to connect at the State line—a very important provision, because gentlemen will remember that the connection of a railroad is not only a physical and actual connection of its rails, but there is necessity for the right of a business connection which will authorize the traffic from State to State to pass the State line. It is important in this connection.

Now, it is said that we have omitted the word "highway" and have not inserted a declaration that these roads shall be highways. Why have we omitted it? If we say that every railroad shall be a highway without any other regulation or limitation of that word, we fix in the Constitution a right which is to be interpreted according to the common law, which means that it shall be a highway in the sense of a public road or any other highway of the Commonwealth, limited only—if it be a limitation—by the construction of the courts, which by necessity impose upon railroads other restrictions than those which apply to ordinary high-

ways. Therefore, in the judgment of the committee, the provision would be superfluous and encumber the section without adding strength. For the same reason, but not so strongly put, we might have omitted that part which declares these companies to be common carriers, because all companies, all associations, all individuals who engage in the general business of carrying freight for hire, become by the common law common carriers, and it was unnecessary to insert that provision; but yet it was done in order to avoid possible misapprehension or the dangers of a possible adverse construction.

Mr. D. N. WHITE. I again rise to a point of order. The gentleman has overstepped his time, and I object to that being done.

The PRESIDENT. The delegate from Allegheny calls the delegate from Lycoming to order, because he has exceeded the ten-minute rule.

Mr. ARMSTRONG. I submit myself entirely to the discretion of the Convention on that question. ["Go on."]

Mr. D. N. WHITE. I object.

The PRESIDENT. The point of order is well taken, but it is a point of order that ought not to be taken.

Mr. CUYLER. I move that the gentleman from Lycoming have leave to proceed.

The PRESIDENT. I indulged the gentlemen who have spoken on the other side of the question beyond the time limited by the rule, knowing that I was doing wrong strictly, but determined on this occasion that every opportunity should be given delegates to express fully and clearly their opinions.

Mr. CHURCH. Is it in order to move to suspend the rule, to allow the gentleman from Lycoming to finish his remarks?

Mr. BOYD. I maintain that the objection comes too late. The gentleman from Allegheny is estopped by his own action and conduct in this body by allowing other gentlemen to take up more time. He is certainly in law and equity estopped, and should now hold his peace.

Mr. ARMSTRONG. Without availing myself of the doctrine of estoppel, I will endeavor to be brief, and yet I have no apologies to make for addressing the Convention at some length—

Mr. D. N. WHITE. I insist on my objection.

The PRESIDENT. The Chair, under the rules of the House, must hold that the del-

egate from Lycoming has consumed his time.

Mr. CHURCH. I move that the rule be suspended.

Mr. HOWARD. I move that the gentleman have leave to proceed.

The PRESIDENT. It is moved that the delegate from Lycoming be permitted to speak further. For what time?

Mr. MACVEAGH and OTHERS. Without limit.

The PRESIDENT. The question is on that motion.

The motion was agreed to.

Mr. FUNCK. I rise for information. I desire to know whether any delegate on this floor will have a like privilege accorded to him if he sees fit to avail himself of it. ["Undoubtedly."] There must be equality on this floor.

The PRESIDENT. There must be, and there shall be so far as the Chair is concerned.

Mr. H. W. SMITH. When shall we ever get through, the way we are going on?

The PRESIDENT. I will not permit one side to proceed by the indulgence of certain gentlemen, and then, when the other side is replying, to have those gentlemen rise and call to order.

Mr. EWING. I ask now, for information, what question was put just now and decided, as there is a difference of opinion here?

The PRESIDENT. The motion was that the delegate from Lycoming be permitted to speak without limit of time.

Mr. EWING. The understanding here was that the rule was suspended on that point, as to this debate.

The PRESIDENT. Oh no, only as to the delegate from Lycoming.

Mr. ARMSTRONG. Notwithstanding the objection which comes from a very few, I return my thanks to the Convention for their courtesy, and I certainly shall not trespass on it one moment longer than I think it necessary to explain the views of the committee on this question. No more important question engages the attention of the Convention, and the article being on third reading, when our action is final and conclusive, there is every reason why all gentlemen who undertake to express their views on either side shall give us the benefit of their suggestions, that we may act discreetly and wisely, and not be hurried into that conclusion which is made in haste to be repented of at leisure.

Now, let us return to the consideration of the article. The third section consolidates the provisions as to discrimination. It provides first that "all individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals." This important declaration is not in the original article. If it be of no consequence, and be fully covered by the declaration that these companies and common carriers it may be useless; but again I say that there can be no great harm in making a constitutional declaration of a great right in which every citizen of the Commonwealth is deeply interested.

Again—and I invite the attention of the Convention to these words, because they are the hinge upon which this debate turns, so far as this third section is concerned—we have said: "and no *undue or unreasonable* discrimination shall be made in charges for or in facilities for transportation." I beg the Convention to contrast the force, simplicity, directness and unmistakable meaning of that expression with the voluminous, the intricate and difficult construction of the fourth section of the original article in this regard: "No corporation engaged in the transportation of freight or passengers in or through this State shall make *any discrimination*," &c. I call your attention to this. Is it the common sense of business men that transportation can be conducted successfully on long lines and in vigorous competition with other carriers from the same competing points, under a restriction which absolutely and in terms prohibits all discrimination? I do not mean to impugn the judgment of those who differ with me on this point; but I call your attention to it as a question requiring the most earnest consideration of the Convention. Is it possible to enforce in practice so rigid a provision? If the Constitution is to be construed strictly, as constitutions must be, within the scope of their intent, there would stand in this Constitution an absolute prohibition against all discriminations. Does the Convention mean that? I am assured that some do, and yet some of those who voted for this article and this section as it stands, hold to the construction that it did not exclude discrimination as to freights which go to or come from beyond the State. The necessity of reasonable discrimination is as apparent and as imperative as any other fact in general business. If the section excludes all discrimination it is impossible of en-

forcement; if it does not, then it stands on the precise ground of the amended article, and there is no substantial difference between them, except in the precision of expression which characterizes the latter.

The idea that we shall exclude discrimination at competing points for the great traffic through this State or around it, in the language of the distinguished gentleman from Philadelphia (Mr. Carey) on another occasion, makes an absolute prohibition of intercourse throughout this State. Take, for illustration, Chicago as a distributing point, and consider what roads connect it with the seaboard. You reach from Chicago the distributive points of foreign shipment by two railroads through the State of New York, by one through the State of Pennsylvania, and one through the State of Maryland. All these railroads have their distinct connection at Chicago, and make their discriminations in freight with a view to command the transportation. If it be said that no discrimination shall be made, then you require that all freight for the long and the short distance shall be carried at the same rate, and if so, you turn all that freight from Chicago. I speak of it as an illustrative point—out of Pennsylvania. You force it into Ohio, to run on both sides of us, to build up the cities of Baltimore and New York, to the great detriment of the city of Philadelphia, and to the detriment of all its cities, and the industries which lie intermediate between those points.

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

Mr. ARMSTRONG. Certainly.

Mr. BEEBE. What is there in the article reported by the select committee that provides for the discrimination which may be made in favor of the city of Cleveland, in Ohio, against the citizens of Pittsburg and Erie, in Pennsylvania, which are competing cities in the same trade and manufactures?

Mr. ARMSTRONG. We provide that "no undue or unreasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State, or coming from or going to any other State."

Mr. BEEBE. Does that preclude railroads from making discriminations if other or rival roads shall carry to the point at the same rate?

Mr. ARMSTRONG. It does not, and it is put here for the very purpose of allowing

to these railroad corporations a right which is an inevitable necessity, and which the construction that many gentlemen put upon the original article compelled them to claim as existing in that article, although it is contrary as well to the letter of the section as to the interpretation which most of its friends put upon it. If such construction be correct, then that article does not differ from the one reported by the select committee. But it is just because gentlemen do differ in their construction, some saying that there is the right under that article to discriminate, and others denying it, that we have put it in express terms, incapable of misconstruction, that there shall be only reasonable, and not undue or unreasonable discrimination, and no competition trade can be successfully conducted under any other rule.

To prohibit all discrimination, which is the distinct language and clear provision of the original article, virtually shuts up this State and excludes all traffic that comes into competition from other points, and if it is then to be modified or avoided by a construction which the exigencies of trade will enforce, we will have done our work like apprentice hands, and not framed a section, as we may and ought to do, clear of all misunderstanding or misconstruction.

But, say the gentlemen, this will hand over all freight and traffic to the discretion of railroad companies. Let us look at it as it stands. At present they have an unlimited right of discrimination.

Mr. BEEBE. I wish to ask the gentleman a question at this point.

The PRESIDENT. The delegate will not interrupt the gentleman on the floor. He will have an opportunity to speak after a while.

Mr. ARMSTRONG. He does not disturb me in the least.

Mr. BEEBE. I understand the gentleman to invite criticism and to ask it.

Mr. ARMSTRONG. I neither invite it nor decline it.

But, say some of the opponents of the measure, how can such provision be enforced? I answer if it exists as a constitutional provision that no undue or unjust discrimination shall be made, it becomes not only fixed as a constitutional right which the Legislature cannot take away, but it will be brought within the reach of judicial determination, and the moment unjust discrimination is made

that moment the courts will interfere at the suit of any party aggrieved.

To this gentlemen reply that the courts themselves are not to be trusted. If that be true, then I say chaos has come again, and neither courts nor juries, nor the Legislature, nor Constitutional Conventions, can avert the ruin which will ensue. Sir, we must place our confidence somewhere. There are rights which must be reposed in the Legislature; there are rights of interpretation which must be entrusted to the courts; and when this Convention undertakes to say that neither the Legislature nor the courts can be trusted to do justice between railroad corporations and the citizens of the State, then I say all rules of law and of construction are set wide open to the winds of passion and of discord. Let us not undertake to place in the Constitution a rule which under no possible exigency or necessity could be changed.

Mr. BEEBE. Will the gentleman allow me to ask another question?

Mr. ARMSTRONG. Certainly.

Mr. BEEBE. Are not many of the grievances provided for here, and of which the people complain, in accordance with the decisions of our courts upon the laws as they exist?

Mr. ARMSTRONG. It is quite possible that the gentleman is right, but no instance at present occurs to me. The courts have had no law upon this subject which they were required to construe; but when you put this provision into the Constitution, they will have not only a law but a paramount law which they will be bound to obey and must of necessity construe.

But, sir, we go further. We say that "persons and property transported over any railroad shall be delivered at intermediate stations within the State at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station."

Mr. BEEBE. That is right.

Mr. ARMSTRONG. I am glad that the gentleman concurs with me in at least one part of this report. He says it is right. I say it strikes at one of the abuses which is patent over the State, and which it is the business of this Convention to correct. I can conceive of no necessity of traffic or of competition which can justify any railroad corporation or transporting company in carrying freight, whether from Chicago or any other point, past an intermediate station in the State and refusing

to deliver it at such intermediate point when they get the same aggregate compensation for the service that they would get by carrying it further. But I apprehend that upon that point there will be no difficulty, particularly with my friend from Venango.

But, sir, the gentleman from Philadelphia (Mr. Biddle) comments with severity upon the sixth section, which provides that—

“Every railroad or canal corporation organized in this State shall maintain an office therein, where transfers of its stock shall be made, and where its books shall be kept.”

What is the purpose of this section? It is provided by constitutional provision that a railroad organized in Pennsylvania shall not transport itself beyond the jurisdiction of our courts. This is the purpose, and it sufficiently meets every alleged abuse in this regard. The second section of the original article requires that their books shall be kept for inspection by bondholders, creditors and others. We omitted that provision upon considerations like these: It would prescribe a rule for corporations that does not exist as to any other interest in the State. There is a common law right of every stockholder and every bondholder and every creditor, when he brings himself within appropriate proceeding and practice of the law, to require an inspection of any book of a corporation in which he can show himself to have an interest. If they transport their office and their books to New York or Baltimore and put themselves out of the jurisdiction of the court, they cannot be reached for such purpose; but when by constitutional provision we require their office and their books to be within the jurisdiction of the court, we have done all that is necessary, for all the rest is a common law right of the parties to be enforced by the courts, and all that is said in the original section subsequent to that becomes mere surplusage.

Mr. BEZBE. I ask again, are not both of these reports made up largely of what are termed common law rights? I have failed heretofore to get an answer to this question.

Mr. MANN. I rise to a point of order. My point is that no gentleman has the right to speak unless he is first recognized by the Chair.

The PRESIDENT. The Chair has endeavored to keep the delegate from Venango

in his seat, but he cannot do so. [Laughter.]

Mr. BEZBE. The gentleman from Lycoming has invited criticism, and as he is not limited in time I thought it proper to ask the question.

Mr. ARMSTRONG. I have invited no criticism, and I decline none. If the gentleman wants to ask me questions, I am entirely open to interrogation by him or anybody else. It is a question for the Convention to say how far they will allow me to be interrupted; I make no personal objection.

Now, sir, I will come to another section, for I shall endeavor to hurry over these sections without any exhaustive argument. It is said that there is no restriction upon the power of these companies to acquire land or to mine. I answer that there is every restriction upon that power which judicious men ought to impose. I say that when you make reasonable restrictions, you have done all that is incumbent and all that the public interests require. Look for a moment at the provision in the original article:

“No incorporated company doing the business of a common carrier shall, directly or indirectly, prosecute or engage in mining or manufacturing articles for transportation over its works; nor shall such company, directly or indirectly, engage in any other business than that of common carriers, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business; but any mining or manufacturing company may carry the products of its mines and manufactories on its railroad or canal not exceeding fifty miles in length.”

Now, what have we provided?

“Railroad and canal companies shall not engage in any other business than that of common carriers, except in such manufactures and productions as are necessary to the equipment, maintenance and operation of their works.”

Can any man reasonably object to this? What are they allowed to do? May not a railroad company make their own cars? The original article provides that they may make their cars and their locomotives; but are those all the exigencies which can arise in the operation of a railroad company, and can we with a provision which is to stretch into the indefinite future undertake to define the exigencies which may arise? We have said that they shall not own lands, that they shall

not mine, that they shall not engage in manufacturing except to the extent which is necessary for the legitimate operation of their own works. Can any men say that that is unreasonable?

Mr. BIGLER. Will the gentleman allow me a moment?

Mr. ARMSTRONG. Yes, sir.

Mr. BIGLER. I desire to remind him of the fact that a few days ago when I was under the impression that it was necessary to insert in the article the express right to manufacture engines and cars and machinery for the use of the road, I was told by the lawyers of the body that that right would be in the railroad company and it was not necessary to put it in.

Mr. ARMSTRONG. I believe it would be, because it would be an incident to their corporate rights, but there can be no objection to expressing it.

Mr. BIGLER. Certainly not.

Mr. ARMSTRONG. Now, sir, what is the restriction? "Nor shall they hold lands, freehold or leasehold, except such as are necessary for the same purposes." Will any man pretend to say that the ownership of coal lands, if you please, to the extent which is necessary, not as one gentleman suggested of providing traffic for their road—no court would permit an evasion so broad as that—but that which is necessary "for the same purposes," that is, "the equipment, maintenance and operation of the road," should not be allowed? What is meant by "operation"? That which they burn in their engines; that which they burn in their machine shops; in short only that which the operation of the road requires, and this term is too explicit in its meaning to be of doubtful interpretation.

Mr. FUNCK. Just here I should like to propound a question to the gentleman from Lycoming. The Philadelphia and Reading coal and iron company, of Philadelphia, is a feeder to the Philadelphia and Reading railroad company. In the original article the incorporation of a company in connection with another railroad is prohibited. The original article says that no railroad corporation shall, directly or indirectly, engage in the transportation of iron or coal that may be mined. Under the original article no corporation could secure the incorporation of another and use that other as a feeder of its own road. You allow that to be done in your report.

Mr. ARMSTRONG. Not at all.

Mr. FUNCK. There is nothing in your report that condemns the proceeding of the Philadelphia and Reading railroad company in that particular, nor is there anything to prevent a like practice in the future.

Mr. ARMSTRONG. I think the gentleman is under misapprehension.

Mr. FUNCK. I think not. The language of the original article is "directly or indirectly engage." Your report says "engage" only. The word "indirectly" is not used at all.

Mr. ARMSTRONG. The language is, "railroad and canal companies shall not engage." Does the gentleman, who is a lawyer, and whose interpretation of law I listen to with great satisfaction—

Mr. FUNCK. The Philadelphia and Reading railroad company is transporting over its road the coal of the Philadelphia and Reading coal and iron company. It is indirectly doing what you say it shall not do directly.

Mr. ARMSTRONG. If it be indirect, then it is prohibited, because since when have the courts ever held that a man can do by indirection that which he has no right to do directly? The prohibition is distinct and clear.

Mr. FUNCK. I understand that the Philadelphia and Reading coal and iron company—

The PRESIDENT. The delegate will have an opportunity to speak hereafter.

Mr. FUNCK. If it is unpleasant to the gentleman, I will not interrupt him.

Mr. ARMSTRONG. I again repeat that I make no personal objection. It is for the Convention to permit or check such interruption.

The PRESIDENT. The Chair will require the gentleman not to interrupt the delegate on the floor.

Mr. FUNCK. Very well, sir.

Mr. ARMSTRONG. Now, sir, if a railroad company engage in mining or become owners of lands for any purposes or uses beyond their own requirements, it is expressly forbidden, and if it be for any transportation company, or for any individual transporting over the road, then there can be no discriminations in the carrying of their freights.

In respect to the Reading railroad, which it has been so often asserted on this floor, owns some sixty thousand acres of land, in violation of their charter; but it is to be observed that it is in the name of another incorporated company, and it is that company that owns, and not the

Reading railroad, and pursuant to the express provisions of a charter which would not be prohibited by either of the reports under consideration.

Now, sir, within this provision there could be no abuse which could possibly grow out of the ownership of so much land as they can operate for their own necessities, and every other ownership beyond that amount is expressly forbidden by the terms of this section. I say that the article, as we have drawn it, with great deliberation and care, carefully excludes all right of ownership to land, all right of manufacturing and mining, beyond the simple necessities and requirements of the railroad itself, and if they undertake to transcend the powers thus limited, the courts are open to every citizen of the Commonwealth to invoke their authority to stop the abuse which contravenes the Constitution.

But, sir, it is further provided that mining and manufacturing companies may construct and operate railroads not exceeding thirty miles in length. It would be a pertinent inquiry to ask why this section is here at all, and I undertake to answer. We have conferred by the first section of this article the absolute and unlimited right to build free railroads in this State, subject only to such regulations as the Legislature may impose. Any mining company could take out its charter under a general railroad law and become a railroad company. They may also mine, because they may be incorporated under the mining laws of the State. Thus it presents itself in this light: If this clause were not here, a mining company desiring to transport its own product must organize its transportation under the railroad act. Thus the same party, doing the same business, would be under the necessity of taking two charters and maintaining two distinct organizations for the same purpose; and there is no public necessity nor any requirement of public policy which demands that they should be subjected to such inconvenience or expense. The purpose is that the mining company, under its charter as such, under one organization, may transport within a distance not exceeding thirty miles. We limited the amount to thirty, for in the original section it stood "fifty." We thought that with an extension so long as fifty miles, it might be open to possible abuses. Possibly this would not have been so, but in the judgment of the committee it is wise to limit that to thirty miles.

I will call attention to one other section. We have provided in the third section against discrimination of freights in general terms, and provided that no undue or unreasonable discrimination shall be made for the reason I have mentioned. In the fourth section we have absolutely denied the right to discriminate at all. I call the attention of the Convention to the fact. Section four reads:

"No discrimination between transportation companies or parties engaged in the business of transportation shall be made, either by abatement, drawback or otherwise, and no railroad or canal company, nor any lessee or manager thereof, shall make any preferences in furnishing cars or motive power."

The distinction is this: As between individuals transporting upon a railroad we say there shall be no unreasonable discrimination. The power vested in the courts to limit and control it is at all times accessible to every citizen of the State. But as between transporting companies we require that they shall have equal rights on any railroad, and in the interest of natural and just competition we say that where railroad companies undertake to transport they shall have equal facilities and equal rights as respects the companies. That is the distinction which we have thought it judicious to make in this regard.

Some comment has been made upon the rejection by the special committee of the tenth section, which prohibits the issue of free passes. I deem it proper to state in that connection, as the gentleman from Columbia (Mr. Buckalew) has preceded me and stated, that he and the gentleman from Clearfield (Mr. Bigler) dissent from the committee on the propriety of leaving that section out, that the special committee stood five to two on that question. The reasons which actuated the special committee were these: Gentlemen will possibly remember that a few days since when the question was before us, I advocated the general policy of prohibiting passes. I gave my reasons therefore and said that I believed the system of issuing passes had been subjected to very great abuses. I believe so still. When I voted in favor of that section it was under the supposition that it would be so restricted by a successive amendment about to be offered as would limit the prohibition to the public officers, legislative, executive and judicial, of the Commonwealth. It was then my

impression that a restriction to that extent would be reasonable and proper. Upon subsequent reflection, I came to the conclusion that it was not a proper subject to be put into the Constitution, and for this reason: If we undertake to limit the right of corporations to issue passes at all, and make the prohibition as general as that which is in the original section, we prohibit the railroad companies from exercising the ordinary courtesies of their roads under any circumstances whatever. We would prevent them, when distinguished citizens from abroad, or distinguished members of the general government might be here, receiving possibly the courtesies of the city and State, from granting to them the slightest courtesy in token either of good will or sympathy or even charity. To the extent expressed previously I cannot go, because I believe it limits and restrains the exercise of this power beyond what is reasonable and proper, and no existing abuse demands it.

As to public officers, objection was made by my friend from Columbia, to which I heartily assented, that it would be an invidious distinction to grant the favor of the railroad companies to strangers and refuse it to our own highest dignitaries. In that part of my friend's argument I heartily concur, and I think the reason is a sound one. I cannot therefore, in my own judgment, vote for the general prohibition because it is too broad. I cannot vote for the restriction which the gentleman himself would oppose because it is an invidious distinction which we ought not to make, and which would imply a distrust of the integrity of our public officers.

With this view of the case, after very full deliberation, looking over this question in all its aspects, the special committee came to the conclusion that it ought not to be inserted. If it is an abuse, as I readily recognize, it is one which is fully within the power of the corporation itself or a combination of all corporations. Or, if need be, it is within the distinct power of that better Legislature to which this Convention looks forward with expectation and reasonable hope; for I take it that under the Constitution as it will stand the abuses of the old Constitution will be measurably abated and we may safely entrust to the Legislature the correction of an abuse of some magnitude, perhaps, but not of magnitude enough nor dignity enough to require us to bring it

within the restrictions of the Constitution.

I have but a little more to say. The chairman of the Committee on Railroads and Canals, in his closing remarks upon this subject, chose to intimate that the report from the special committee was a merely plausible article intended to

"Keep the word of promise to our ear
And break it to our hope,"

that it was nothing but sounds and words without meaning—glittering generalities, intended to deceive the Convention into adopting something which they would not in their best judgment approve. If the language of the gentleman did not mean this, it meant nothing, and if it did mean that, the gentleman raised his arm to strike without the courage to deal the blow. I say that this article as it stands, and stands fairly before this Convention, is a wise modification of the provisions upon which we have been so long deliberating. We are asked now to adopt this whole article with all its good and with all its evil, for it has good provisions; but I believe it is crude, it is not well digested and ought not to receive the favor of this body. If the condensed report of the committee of seven is adopted, it stands open to the amendment of the Convention, in whole or in part and in every part, until every section, line and letter will be changed if it be the judgment of the Convention that it would be wise to do so. But as a basis upon which this Convention shall found its action, upon which we shall build up the reasonable restrictions which we should throw around these great corporations of the State, I believe it is a better and a surer foundation upon which to build than that which the gentleman from York (Mr. Cochran) and his Committee on Railroads and Canals have suggested.

I desire here again to repeat that it is not accurate to say that this committee of seven have done their work in one day or two. We have had the advantage of assiduous and careful labor on the part of the Committee on Railroads and Canals, and on the part of its chairman. I recognize in the fullest degree the integrity and the great ability which that gentleman and his committee brought to the consideration of this subject; and it is just because they had struck out the right line and direction of our thought upon this subject that the committee of seven were able, in their judgment, con-

dsely and promptly to present the article which, in the maturity of their judgment, they believe to be better than the original.

I appeal to the House then to stand by this article as it is presented, to correct it wherein it is wrong, to improve it where there is omission, to strike out wherein it is superfluous, but let it be the basis upon which we shall build a system and a policy which shall not break down the transporting interests of the State, nor unnecessarily and unwisely trammel the free action of these corporations, by whose agency every interest of the State has been built up into unprecedented prosperity, and untold millions added to our wealth, scattering their beneficent influences over every part of this State until they have become a power great for good, but attended with some evils which it is our business to correct and to prevent, and which, under this provision, I believe will be speedily and surely prevented.

Mr. ΜΑCΥΕΑΓΗ. I simply desire to say to the Convention that I apprehend there are three parties in this body, one represented by the two gentlemen who first spoke, (Mr. Howard and Mr. Cochran,) who are willing to accept the original report as it stood when this special committee was appointed, without any change in its condition; another represented by the members of this committee of seven, and other gentlemen who are willing to accept this substitute as it stands; and there are still certainly a few gentlemen in a third category who are utterly unwilling to take either the article as it stood when it was referred, or the report of the committee to whom it was referred, as it was made this morning. They desire to improve the one or the other, and it is with them a question simply as to which of these two propositions is the better basis for beginning that work of improvement, whether they had better modify the original article, which received such prolonged and careful consideration in this House, or whether they had better endeavor to modify the article which received such very brief consideration at the hands of the special committee, and has received no consideration at all at the hands of the House.

I opposed a proposition of the gentleman from Philadelphia (Mr. Cuyle) the other day, in reference to the judiciary, simply because it was brought here after the article had almost passed third reading and the proposition had not en-

joyed the benefit of careful inquiry or examination. And here and now, I think perhaps it is the lesser of two evils, if we must take one or the other of these two propositions, to substitute the article as we have it before the special committee was appointed, and then section by section, to take the amendments proposed by the committee of seven and vote upon them. Or, I am perfectly willing to take the report of the special committee and contrast it, section by section, with the original article, until we obtain a result—not the report of either committee, but a result which will meet the views of a majority of the House.

This is a question on which we need some yielding to each other's opinions, some endeavor to find a common ground. We cannot differ in the end we have in view. We recognize the gravity and the magnitude of the evils which enfold railroad management in this State. No man here is so deaf that he has not heard the imperative cry of the people for redress. They mean to have it, through this Convention if you are willing, over this Convention if you refuse it.

But that is no reason whatever why we should do that which nobody seriously demands, to wit: What we are distinctly asked to do in the fourth section of the article as it was referred—to repeal irrevocable laws of trade that ante-dated railroad corporations and are sure to survive them. There are some laws settled by the experience of mankind, discovered, recognized, stated, amplified hundreds of years before a railroad track was ever laid, and which will be illustrated, recognized and amplified hundreds of years after the poetic vision of the laureate is fulfilled and other methods of travel shall have superseded these. One of those laws is that, other things being equal, the ratio of compensation in a contract diminishes as the subject-matter of it increases, and we may just as well acknowledge that law and be done with it. Galileo was compelled to deny laws of nature, but he did not repeal them. After all the rigor that was applied to him to secure his denial, the law remained and the movement of "the stars in their courses" continued. And so this law will remain and this movement and this regulation will continue.

Now, there are those of us who believe that there are considerations of very great value in the original article reported by the Committee on Railroads and Canals,

We have such profound respect for many of the members of the special committee—and that is not a formal statement, it is a conviction—that I would almost be willing to take every word of it, when they say that every essential principle of the original railroad article is contained in their report. Nevertheless it may be safer to take the first article and then consider it, and contrast it with the sections the special committee offer to put in its place. I do not care which course is adopted. I hope the motion to substitute as a whole will be withdrawn and the motion will be made which I was ready to make myself, to substitute the first section of the old article for the first section of the new; and so, confining the debate to the question immediately before the House, pass upon it section by section, and if finally you decide that you will adhere to the fourth section of the old article as you have it, and will deny to the trading corporations of your own State, or endeavor to deny them, a law of trade which is of universal application, so be it, and let the people pass upon your work. Or if in a spirit of harmony you will endeavor to discover some other phraseology that shall not be obnoxious to this objection, perhaps a very considerable number of the members of this Convention would harmonize upon it.

That is the main question in dispute except the question upon the free transportation of persons, and upon that I have after mature consideration a very clear view as to the limitations of my duty here, and I propose to adhere to that conviction. I believe now there is a public evil in the granting of this favor to persons in public capacity, but I do not believe we are called upon here to interfere with the private conduct of the private business of these corporations; and I therefore, with that limitation would propose to reinstate the section; or if the Convention proposes to reinstate it in its entirety or to strike it out altogether, it does not seem to me to be a vital question, for sooner or later the companies will regulate it for themselves. If you prohibit them issuing passes to persons in public capacity you may be sure they will be very chary of issuing them to persons in a private capacity. It is because they are issued to public officers that they are so freely issued to private persons; but it is after all a secondary matter in comparison with other questions upon the article we are to frame.

And I trust my friend on my right, (Mr. Cochran,) in respect for whom I yield to no man upon this floor or elsewhere, will reconsider well what he has said, for it is impossible for us all to write this Constitution as we want it. I am perfectly sure there will be much in it that I would like to be omitted, and there will be many provisions omitted that I think tend directly to the purification, the elevation of your public life and the admitting to places of honor and of trust of a nobler race of public servants, who will gather to themselves something of the antique idea of fidelity to the State rather than to themselves. And yet I hope to be able to approve of the instrument as a whole and to recommend it to anybody who will do me the honor to listen to my advice as certainly a very vast improvement upon anything we possess to-day.

Mr. HOWARD. Mr. President: I have been very much gratified in listening to the compliments that have been paid to the chairman of the Railroad Committee. I have served with that gentleman a long time, and I know that he has earned at the hands of this Convention all that has been said in his favor; and I sincerely hope that this Convention will go further and not compliment him merely in words but let us pass the report reported by the committee of which he is chairman, and then he will not only have the honor in words but the honor indeed of having reported an article fit for this Convention to support and to recommend to the people of the Commonwealth.

Mr. President, it is well sometimes for us to consider the basis on which the Railroad Committee acted in making their report. Very many delegates, soon after the Convention assembled and after the appointment of this Railroad Committee, sent their instructions in writing for the consideration of the committee, and upon which they were required to report. Perhaps it will be interesting to the delegates if I read instructions that were prepared and sent to that committee by no less a distinguished delegate than the gentleman who presides over the deliberations of this body, (Mr. Walker,) and certainly the recommendation of the delegate at large from Erie should have very great weight with the Railroad Committee, or any other committee of this body. The fourth section that has been so fiercely assailed I desire to say was suggested, in a great measure, by the distinguished delegate at large from Erie. I will read it:

"By Mr. Walker:

"Resolved, That the Committee on Railroads be instructed to inquire and report whether a provision should not be incorporated into the Constitution compelling all railroad companies incorporated by the laws of this State to carry freight from any point in this State to any other point either within or beyond the limits of the State at the same rate per mile that similar freight is transported over said road from any point beyond the State."

Now, to the delegates of this Convention I appeal—

The PRESIDENT. I hold that to-day, and it is in accordance with every vote I have given.

Mr. HOWARD. I am very glad, indeed, to hear the delegate say so, and should have been glad if he had voted with us, because I consider it covers all that is contained in that part of the fourth section which has been so especially denounced by delegates upon this floor.

Then, again, another delegate, who seems to have turned his back upon us, and I am sorry that he is not here, because he is my colleague and a very distinguished gentleman, and we happened to follow his suggestion upon the same point and embodied his ideas in this fourth section. I will read it:

"By Mr. J. W. F. White.

* * * * "And no discrimination in favor of through freight or through passengers shall be made against the citizens of this State."

Now, what is the fourth section? It is that no discrimination shall be made against the citizens of this State, using substantially the language of this delegate, who has most unsparingly denounced this report, and especially that part of it that prevented discriminations in favor of through freight; and in these denunciations he has been complimented by those who were hostile to any real and substantial reform in railroad management. Now, Mr. President, it may seem extraordinary, but yet conversions are extraordinary sometimes, and I am willing to admit that they may occur in this Convention just as well as they may sometimes suddenly occur in church.

Now, in regard to the work of this special committee, and I congratulate my distinguished friend, the delegate from Lycoming, that he finally did get upon the Railroad Committee. He was the

first delegate, notwithstanding his compliments to the chairman of that committee, who rose in his place a few days after the report of that committee and made a motion to strike down that committee; and what was the ground stated? That the committee were incompetent, and it should be referred to a committee of practical railroad men. Why, Mr. President, do gentlemen suppose that we have lost our memories, that we do not remember these blows that have been struck by those gentlemen at the chairman of the Railroad Committee? I remember them, and I propose to do it as long as I can remember what belongs to the character of a gentleman.

Well, Mr. President, what have the special committees done? They reached for the work of the Committee on Railroads. They have got it, and what have they brought forth? Have they performed their labors in such a way as to respond fairly to the confidence this Convention reposed in them? Have they done it, because that is really the question. If they have fairly responded to the confidence the Convention reposed in them, then we ought to strike down the report of the chairman of the Railroad Committee and accept the work of this committee of seven. In the first place, the report of the Railroad Committee was made in the regular way to this body; it was considered in the regular way by this body. This assault made on the part of the delegate from Clarion is not the first; it had been proposed by a delegate from Philadelphia, (Mr. Dallas,) it had been proposed by the delegate from Lycoming, (Mr. Armstrong,) and if I am not mistaken by a delegate in front of me; perhaps he did not make a motion, but assaulted that committee on the ground of incompetency, &c., &c.

Now, let us see what the special committee have done that should claim the confidence of this Convention, because when we are considering a subject of this kind, a subject where every word, not every line merely, but every single word, is of importance. Are the friends of honest reform in railroad management satisfied to accept the work of that special committee? Are they perfectly satisfied that those gentlemen are honestly, earnestly and sincerely in favor of a reform in the management of these corporations? If you are first satisfied upon that point then I admit that we may receive their work perhaps with not so much care and

so much caution as we would exercise if we had not that confidence.

I will take the first section they have reported. It says that "all railroad and canal companies shall be common carriers." What did the committee report? The committee in section eight, for this is a substitute for section eight, reported that railroads should not only be common carriers, because that is simply declaring that white is white, that black is black; who does not know that they are common carriers? Why assert a thing like that in the Constitution? Put it in simply because it means nothing at all; that is the reason why it is here. Who ever doubted the fact that they were common carriers, forsooth? We had more. We declared that they were public highways, and they are public highways, and the people of this Commonwealth want to vote upon the proposition that they are public highways and that they shall be so treated. We never can consent that the doctrine may, either by legislation or by implication, by act of this Convention or by the decision of the courts, be asserted that they are both private corporations and private roads. Then they say: "any association or corporation." Our article reads that any association, corporation or individual shall have the right to make a railroad in this Commonwealth; but they strike down the individual and say that only the organized corporation shall have the right to make a railroad. Why should we strike down the individual?

And, sir, what is more, we provided a general railroad law in the Constitution beyond the power of the Legislature to repeal. It has been tried time and again in the Legislature of Pennsylvania, and every time it has failed. Why? Because a giant corporation of this Commonwealth has controlled the Legislature against the people of the State, and we know it. Why disguise the fact? The people have tried for years to get a fair free railroad law, and this special committee, in place of the section in which we gave the people what they wanted—a free railroad law beyond all doubt or all question; that did not need to be referred to the Legislature that has practically defeated it on every occasion—this special committee have said here: "subject to such regulations as shall be prescribed by law." There are no such words as that in the report of the regular Committee on Railroads.

Then this third section that is a substitute for section four contains not only the words "undue or unreasonable," that this Convention have voted down more than twenty times, and I do not understand where a committee of this body, appointed to express its sentiments, gets the authority to bring those words back here and expect the Convention are going back upon at least twenty votes where they have refused to accept the same or similar words, these qualifying words that will leave it to the railroad shipping agent, at every point upon the line, to make any discrimination he pleases and force every man that differs with him in opinion in regard to the discrimination into a law suit. Why, Mr. President, it seems to me that that committee took upon themselves a high responsibility when they seized upon these expressions that they knew had been rejected time and again by this Convention; I repeat it, rejected upon a straight, fair vote; time and again they had been stricken down here; and the Convention said, we will have nothing to do with them, and yet this committee claiming to represent the sentiment of a majority of this Convention come back with this defeated material, and they insert it into their article and they ask us to accept it.

Then it contains more:

"There shall be no discrimination made in charges or in facilities for transportation of freight and passengers within the State, or coming from or going to any other State."

Here comes the direct issue. They agree here that the companies shall in all future time, as they have in the past, discriminate against the people of Pennsylvania, a people from whose magnanimity they have their special privileges, a people from whom they derive their life, their corporate existence; they ask that they may still strike down their interests in order that they may admit outside people to have cheaper transportation of freight and passengers into and through our Commonwealth; that they may strike down in the future, as they have in the past, our manufactories; that they may force the people of western Pennsylvania to go to Cleveland before they can get reasonable transportation to the east; that they may force the second city of this Commonwealth to ship their goods into the State of Ohio, in order to get a fair rate of charges to reach the seaboard.

Why, Mr. President, after so much discussion as there has been upon this fourth section, on the part of those gentlemen, they moved to strike it out, they moved to amend it, they had struck at it in every line almost, in every one of the propositions which it contained, some three or four; and every assault made upon it was rejected triumphantly; and yet this committee claiming to represent this body, claiming fairly and honestly to represent the majority, as it ought to represent them—if it did not it was unparliamentary—have really destroyed it, and these gentlemen well knew that this Convention could not accept their work unless there had been some conversion in some way of delegates on this floor, by which they were going back upon their record, going back upon their votes, and going back upon a section that has been endorsed almost unanimously by the people of this Commonwealth.

Then we come to section four of this report of the committee of seven. "No discrimination between transportation companies or parties engaged in the business of transportation shall be made." They seem to have always had in view as a committee the object which they sought to accomplish by their votes in this Convention. I do not object at all to their votes. They have a right to vote as they like and speak as they like; but they do not express the opinion of the majority of this body. They have never voted with, and they do not express the opinion of, the majority of this body. What do they provide?

"No discrimination between transportation companies or parties engaged in the business of transportation shall be made."

Where is the provision for the protection of the individual shipper? The chairman of the Railroad Committee is entitled not only to all that has been said here in his favor, but is entitled to the gratitude of the people of this Commonwealth forever, because he protected the individual shipper against these corporations that have oppressed him, that have robbed him, that have discriminated against him until they have driven him out of business, broken up his trade, and compelled him to follow some other pursuit. We have had cases of that kind in Pittsburg; we have had it in a branch of the iron business; we have had it in the coal business, and in the grain trade, and yet these seven delegates claiming to

represent this Convention, and claiming that they have properly used the confidence reposed in them by this body, report a section in which they strike down all protection to the individual shipper and protect the very corporations that it was the intention of the people of the Commonwealth to get some protection against. So much for the fourth section.

Then comes the fifth section; and on this point, as some gentlemen have been very free in denouncing the intelligence of the Railroad Committee, allow me to say that I am very sorry if the committee of seven have made the omission I intend to notice in this section intentionally. I hope they have not. I would much rather believe that they did not understand the subject, because they say "no railroad company shall directly or indirectly consolidate." Why, sir, we have companies in this State that are not railroad companies that control more railroad, three miles to one, than all the road controlled by the Pennsylvania Central. The Pennsylvania company controls every railroad that runs out of the city of Pittsburg, except the Connellsville and the Pennsylvania Central, and yet it is not a railroad. It is a company that cannot be described. It is everything under Heaven but a government that has absolute sovereignty of the State. And yet that company, which was carefully guarded against in the section reported by the Railroad Committee, is left out in section five of the report of the committee of seven. We covered that company by saying "no railroad company or other corporation engaged in the business of transportation." We used those words after careful examination and deliberation; and I say that every word in the report of the Railroad Committee, except that which was put in in the Convention, was carefully, laboriously, earnestly and honestly considered, because I do not believe that that committee had any motive to report anything but an honest and fair article for the consideration of this Convention.

Then I come to section six of this report of the committee of seven. I do not know how to characterize it. I do not know what to call it. I do not want to express my real opinion upon it. What was the object of the section reported by the Railroad Committee? It was to provide not simply a system of railroad book keeping, because we knew that every railroad company had an office some-

where in which their stock was recorded and transferred, but we provided that those books should be *open to inspection*, because we were credibly informed, and by reliable testimony, that they had refused the examination of those books even to their own stockholders. The delegate from Lebanon (Mr. Funck) furnishes me with the proceedings of a meeting of the Pennsylvania railroad company in which a resolution was offered requiring them to furnish a list so that they could determine who were the stockholders even among themselves, and that resolution was voted down.

Sir, this section six in no sense expresses the idea that was expressed by this Convention in the adoption of section six in the original article. It is a positive evasion of it. It could not be an omission on the part of the committee. They must have intended to defeat the object of this Convention. Is that a fair answer to the confidence that this Convention reposed in them? I appeal to every fair-minded man on this floor: Is it fair?

Then comes section seven, which we call Mr. Bullitt's section. I have no objection to that.

Section eight provides: "That railroad and canal companies shall not engage in any other business than that of common carriers, except in such manufactures and productions as are necessary to the equipment, maintenance and operation of their works."

If this committee had added after the word "works" the words "to be used exclusively in or upon their works and not for sale," they might have covered the great objection that the people of the Commonwealth have to railroad companies engaging in these outside operations. This section leaves it open for them to engage in manufacturing; it does not prohibit them from selling, it does not prohibit them from manufacturing all railroad materials for all the railroads in the world. Why, sir, was it ever intended by the people of the Commonwealth that these companies should have this power? And yet this committee intend that it shall be put in the Constitution that they shall have the right to manufacture everything that goes into a railroad. As a matter of course they will have a right to sell it, and there is no limitation whatever put upon it. Let me read the clause again:

"Except in such manufactures and productions as are necessary to the equip-

ment, maintenance and operation of their works."

The committee should have put in these words of limitation, that they should not be manufactured for the works of others; but there is no limitation in the section. They can manufacture what they please so that it belongs to the equipment of a railroad, and they can erect their unnamoth manufacturing establishments and crush out individual enterprise at any point in this State.

Mr. President, these are some of the reasons why I think this report should not be adopted by the Convention. Why should it be? The article reported by the chairman of the Committee on Railroads had been well and thoroughly considered by this Convention. It will not do to say that the opponents of that article had not every fair opportunity to consider it and amend it. They had precisely the same opportunity to amend that article, either in detail or by striking out sections or substituting the work of any other delegate or of any other association of gentlemen, if they had chosen to put their heads together for the purpose, that they had to amend and to correct every other article considered in this body. Sir, they offered their amendments. From the moment the article was reported from the Committee on Railroads the assaults upon it commenced, all through the first reading, lasting, perhaps, two weeks. Then, when it came upon second reading, it did not take so long, perhaps, but still it underwent the fire of a severe criticism, and there was brought to bear upon it the sharpest intellects in this body; and yet with all this criticism a majority of this body put it through a second reading. Then when it came here from the committee on Revision and Adjustment, its opponents had it under fire for three days. They had it first for two days and proposed amendment after amendment. Finally, in a thin House, and out of courtesy to a distinguished delegate, who is now upon the committee of seven after it had finally passed by a vote of fifty-two or fifty-three to twenty-seven, it was opened again, and how did that delegate (Mr. Buckalew) respond to that courtesy? As far as in his power he has labored to strike down the chairman of the Railroad Committee and disgrace him before this Convention and before the people of the Commonwealth as incompetent to make a railroad report.

Such, Mr. President, has been the history of this report. Why was it necessary that this report should be singled out from all others? I admit that *two* sections of the article on the Legislature were taken out of it and referred to another committee; but in no case was such a course pursued in regard to an entire article. Why was it necessary to go out of the ordinary course with regard to this report of the Committee on Railroads? Why was it that it could not be amended in open Convention? Why, sir, those opposed to it found that in a fair discussion, in a fair field and an open fight, they could not make an impression upon it; they found that the article would be likely to pass in accordance with the well known wishes, as far as we have been able to gather them, of the people of this Commonwealth; and I say here what cannot be contradicted, that the chairman of this committee has had in his possession petitions enough in favor of this article to have papered these walls. What other article can make the same claim? Is it the judiciary article? What other article in this Constitution can claim such an endorsement of the people of this Commonwealth? I say, petition after petition has been poured into this body and deposited with the chairman of the committee in favor of this railroad article; many of them were laid upon the desk; many of them, perhaps, were not read at length, but all showing that thousands of our people were endorsing this railroad article as it was prepared by the committee.

Now, Mr. President, I hope the Convention will be consistent with their former votes. If it was any new matter I should not ask them to do it; but because it has been so long considered, because it has been so thoroughly discussed, because it should be treated precisely with that degree of fairness that has been extended to every other report in this body, I ask the Convention, for their own consistency, to do what the people of the Commonwealth want them to do, sustain this motion and substitute the article prepared by the regular Railroad Committee, with the amendments the Convention have put upon it, for the report of this select committee. Then how will the matter stand? The whole question will be open to the Convention. If this substitution takes place, the article will stand upon second reading, it can then be put upon a third reading; and if the dis-

tinguished delegate from Columbia (Mr. Buckalew) thinks he can amend it, as he did the seventh section, he can do so, and so can every other delegate on this floor if he has anything to offer to amend this article to make it better. Gentlemen, do it fairly; do it squarely; do it just as you have the other work of the Convention. Let us have no "ways that are dark," or out of the usual course. That is all that the friends of this article ask.

Mr. HUNSICKER. I wish to ask a question of the Chair for information. As I understand the question, the report of the committee has been decided to be the article before us, and on the motion of the delegate from Philadelphia (Mr. Temple) the original report of the Railroad Committee is offered as a substitute for the report of the special committee.

The PRESIDENT. That is the motion.

Mr. HUNSICKER. Now I understand delegates have argued on the floor of this House that after the Convention adopts the substitute, it will be still amendable. I desire to know from the Chair whether that is so or not.

The PRESIDENT. If it is necessary to decide that point now the Chair will decide it. Parliamentarily such amendments would not be in order; but the Chair will now state that when that point comes up he will, unless over-ruled by the House, hold that the matter before the House, whether the report of the special committee or the original article, will be open to amendment.

Mr. BROOMALL. Mr. President —

The PRESIDENT. Perhaps the Chair ought not to have stated his opinion too broadly now, because it will be time enough to decide the question when it arises.

Mr. BROOMALL. And yet the question is an important one.

The PRESIDENT. For that reason I thought it proper to state my view now.

Mr. BROOMALL. And yet if the House, following the general parliamentary rule, shall over-rule the President, then we shall have the original article, with all its crudities, to be thrown at us, and if this Constitution be adopted by the people, at our children and grand-children throughout all time to come; so that the question is an important one. I should like to know now whether or not we are to have the privilege of altering either report that shall be taken up as the basis of action, on equal terms. I want to know that now.

The PRESIDENT. Certainly the Chair will so rule.

Mr. BROOMALL. That is satisfactory; and now we are on equal terms as to both propositions.

Mr. President, I wish delegates would bear in mind more frequently than they seem to do, and particularly more frequently than they seem to do on this article, that our business here is not legislation. It is not to make laws. One of the complaints that those of us have had who complained of the original railroad article, one of the most serious complaints, was that it was making a railroad law and crystallizing it into the hard lines of the Constitution, making it unalterable for seven years, no matter how hard it might work and how wrong a few months experience might show it to be.

I want to call the delegates back to our duty, and that is either to restrain or to enjoin legislation, not to make laws. The people never called us together for the purpose of committing to us the making of a code of laws. Upon no other article than this has been considered necessary to make a code of laws. Upon all other articles we have been satisfied in the main with simply enjoining or prohibiting legislation. Why should we not do the same thing here? Gentlemen tell us that the railroad corporations are so powerful that nothing can control them but a Constitution. Why can nothing control them but a Constitution; and why can that if nothing else can?

I have said before, and I repeat again, that it is monstrous presumption and impudence in us to set ourselves up as better and purer men than our constituents; it is a monstrous impudence in us to set ourselves up as better and purer than the members of the Legislature. There is not a man here but will have to blush when he talks to his constituents about the Legislature giving themselves extra pay! Is there a man who will not have to blush? If we had thought ourselves better and purer than the men who were sent to Harrisburg, that vote and the action of all of us in taking the pay, as far as it has been given, ought to stamp the blush of shame upon our cheeks so that it will never be effaced. Sir, we are made of the same material with the Legislature, and there is not a legislative body that ever assembled at Harrisburg which is not equal to us in point of ability and honesty. [A delegate, speak for yourself.] I think I may speak for some of my neigh-

hors. When I remember propositions of minute legislation that have been proposed and laughed at by some of my neighbors, on other questions than this, I might include them in the category as well as myself, and I freely take it to myself. I claim to be no better than those who represent my county and my district at Harrisburg, and my constituents know that I am no better, and expect no more of me than of them.

Sir, why is it that we must do this thing? Because it is said that legislators are bought up by the railroad companies. It has been hinted here in various quarters that those who made the opposition the other day to this railroad article are in the pay of railroad corporations. Let me tell the gentleman whose obliquity of moral vision is so strange and so monstrous that the only man responsible for the attack that was made upon this article the other day was myself, and that I made it without saying a single word to a single human being here or anywhere else about my intention.

Mr. S. A. PURVIANCE. You took us by surprise.

Mr. BROOMALL. I do not care how much I took you by surprise. I do not know whether I did or not. I sat looking at the article; I had been making up my mind of late that there was a great deal of good in the Constitution, and I wanted to vote for it, and I wanted to get as large a vote as possible in the State for it, and as I sat here I saw so much good in the particular article in question that I thought it a shame that I should be compelled to vote against it by reason of the very strange peculiarities that it contained in some of its features, and when I got the floor I did it for the single and sole purpose of saying why I, who made the first attack upon railroads in this body, should have to vote against the result of the labors of the Convention.

I came here wholly unconnected with railroads. I have said before that I am neither the agent nor counsel nor in any way concerned in any railroad, and have no railroad stock in any road exceeding thirty miles in length.

Mr. ALRICKS. Have you not free passes?

Mr. BROOMALL. I have some free passes; has not the gentleman? I have been long in the habit of receiving a pass upon a railroad that is occupying some ground of mine. Now, if the gentleman

will buy that ground of me, he may have my pass. [Laughter.]

Mr. ALBICKS. A railroad company bought some ground of mine and never gave me a pass.

Mr. BROOMALL. Then that railroad company does not pay the gentleman for his ground as well as the railroad company I speak of pays me. [Laughter.] What I wish to say was that the attack was made without concert with anybody.

Something has been said about the gentleman from Columbia, who sits in front of me, being concerned in this iniquitous proceeding. Why, sir, I did not know how he was upon the question until I met him upon the committee. I there found him a very sensible man upon this, as I have found him upon all other questions; I found him opposed to legislation here just as he is opposed to legislation in other branches of the Constitution. I found him in favor of guarding the rights of the people here just as I have found him in favor of doing it elsewhere, by enjoining or by prohibiting legislation.

Now, sir, coming here unconnected with railroads, except as an earnest advocate of their increase, with not less than nine in operation in my own little county, which was so cavalierly treated yesterday, and wanting half a dozen more just as soon as we can get persons to build them, I came here in favor of railroads, particularly if others will build them, never entering into the building of them myself except upon necessity, having no opinion of railroad stocks or railroad bonds as investments, and wanting nothing to do with railroads except that they should develop the country. I came here I say, with that kind of notion, and when I ventured to speak in favor of railroads, and to show that they had doubled the population and wealth of the country in a very few years, and that we, of all people in the world, ought to be the last to trammel them unnecessarily, my ears are stunned and my sense of hearing blunted by the bellowing of Slaymaker's

bull! Why, sir, that distinguished reformer, (for I believe he was one wishing to reform in his own way, backward,) acquired the celebrity he has, some forty years ago in a battle somewhere in the Pequay Valley, a battle in which I believe the only survivor was the locomotive; and the celebrity he has acquired is equal to that of his famous ancestor in the zodiac. And yet dead as he was that long ago, his roar has reverberated from hillside to hillside in Pennsylvania, and has echoed throughout legislative halls ever since, and now we have it here. Do gentlemen suppose that they can stop railroads? Do gentlemen suppose that they can do what the bull could not? If they do, they will meet with precisely the same fate that the bull did.

Mr. President, when the committee was appointed I, as a member of the committee, wrote out what I will read now as my programme, that which I desired to see adopted by the committee.

"First, to deprive railroads of the power to prevent the establishment of competing routes." That was to be done in the first section, and is precisely what I referred to the committee in my first attempt to do away with some of the evils connected with the railroad business of the country. I believed that there were railroad companies at Harrisburg every winter trying to prevent competing roads, and I wanted to stop that; and I referred to the committee the first five lines of the first section of the railroad article, which they did me the honor to copy *verbatim*; "Any individual, partnership or corporation, organized for the purpose, shall have the right to construct and operate a railroad or canal between any two points in this State.

Mr. BOYD. If the gentleman from Delaware will give way, I will move an adjournment.

The PRESIDENT. The hour of three having arrived the Convention stands adjourned until to-morrow morning at half past nine o'clock.

ONE HUNDRED AND SEVENTIETH DAY.

WEDNESDAY, *October 22, 1873.*

The Convention met at half-past nine o'clock A. M., Hon. John H. Walker, President, in the Chair.

Prayer by Rev. J. W. Curry.

The Journal of the proceedings of yesterday was read and approved.

RAILROADS AND CANALS.

Mr. BIGLER. I move that the Convention proceed to consider article number seventeen, on railroads and canals.

The motion was agreed to.

The PRESIDENT. The Convention now resumes the consideration of the article, and the delegate from Delaware (Mr. Broomall) is entitled to the floor. The Chair will state that yesterday he indulged gentlemen in speaking over ten minutes, but to-day, unless the Convention rules otherwise, he purposes holding delegates to the rule.

Mr. BROOMALL. I am entitled to my ten minutes now.

The PRESIDENT. Ten minutes, and ten minutes only. The pending question is the motion of the delegate from Philadelphia (Mr. Temple.)

Mr. BROOMALL. I was about to say last evening, Mr. President, that when I was appointed upon this committee I set about seeing exactly what the evil was and undertaking to get my mind in a frame to apply the remedy. The evil is monopoly and favoritism. It does not go beyond that. If we can prevent both monopoly and favoritism we shall have succeeded in doing all that the State desires and all that the subject requires. Now, to prevent monopoly, two modes have been contrived, one by the committee of the gentleman from York, (Mr. Cochran,) another by the committee of the gentleman from Clarion (Mr. Corbett.) They do not materially differ. The first of these is the one that I had sent to the original committee of fifteen. That is the one that allows any individual, partnership, association or corporation organized for the purpose, to make a railroad anywhere. That I wanted; that I want still if certain unpleasant consequences can be guarded

against. When the question was put to me whether or not under that, some wealthy man, to gratify some malice of his own, could not run a railroad through my front yard, subject, of course, to the payment of damages, which he would gladly pay for the purpose of injuring me. I had to answer that it was open to that objection.

I maintained, however, that an association of persons might do precisely the same thing, to which the answer is, certainly, but that two men together, who must avow their intentions to one another, are less likely to act through private malice than a single one who need explain to no one. Seeing that that end was mainly answered by allowing several persons to do the same thing, I gave up the word individual and was willing to let two or more persons make railroads. Then came the question whether or not this should be done pursuant to legal regulations. I find that both propositions contain that limit; one of them that the Legislature shall provide the means by which this shall be done—that is the contrivance of the committee of fifteen—and the other that this shall be done pursuant to arrangements now fixed or hereafter to be fixed by law, a difference of phraseology that does not strike me as containing a difference of essence. It is necessary that this thing should be done according to law. It is necessary that the railroad corporations as well as everybody else should be under and subject to the law. If anybody here proposes to set them above the law, he cannot get my vote. The propositions in that respect do not differ. To prevent monopoly then these two committees propose precisely the same thing, except that the committee of fifteen still retains the word "individual," which I was the inventor of, but which I abandoned for fear that it might for seven long years allow some wealthy individual to oppress his poor neighbor without being obliged to give a reason for his behavior.

Now, sir, we must trust something to the Legislature, and there is this material

difference between these two committees; the first wanting to make a railroad bill; the second wanting to make the Legislature make a railroad bill. The difference in the result is this: that if we make it here, following the committee of fifteen, we will make unalterable for seven long years what six months may show us will not answer for the purposes of the State, whereas if we require the Legislature to do it, they will alter it when they find it to work wrong. Sir, there is no omniscience here. Nobody can tell that his plan will answer well until he sees it tried. That is why the project of the committee of seven is better than the project of the committee of fifteen, not that it, too, is not to some extent a railroad bill, but it is not to the same extent a railroad bill with that of the committee of fifteen. Sir, if we cannot trust the Legislature self-government is gone. There is no use talking about it; we cannot govern the State. It cannot be done by a Constitutional Convention. The time must come when we must return to the obscurity from which we came and be private citizens, and the whole thing must be with the Legislature, which must be trusted. That is the way therefore that we propose to prevent monopolies.

Now, we propose to prevent favoritism by the plain, distinct proposition that among transporters and transporting companies and persons engaged in the business of transportation there shall be no favoritism. That is our proposition, and that is the proposition of the other committee except that it takes them a long time to say it, and when they have said it, it needs a great deal of hunting to find just where it is. We say that in so many plain and distinct words, in good English.

Another thing we do is to allow everybody equal rights upon all railroads, subject to the provision that there may be reasonable discriminations. That has been complained of. Is it subject to complaint? If we refuse to allow reasonable discriminations we really make unreasonable discriminations. It is not reasonable that a railroad should be compelled to charge as much for a wounded soldier going to his home as for some of the rest of us under different circumstances and better able to pay. It is reasonable to allow the discrimination to be made. There are a great many instances in which to deny reasonable discriminations is to allow unreasonable discriminations. The gentle-

man from Allegheny, (Mr. Howard,) counting him at his own value of himself, should be required to pay ten times as much as the railroad ought to charge me; and yet if you do not allow them to make the reasonable discrimination of charging him ten fares along side of my one, you make the unreasonable difference of classing us two very different individuals exactly alike.

Sir, reasonable discriminations must be allowed, or unreasonable discriminations will be forced. What? Shall I be told that the Philadelphia, Wilmington and Baltimore railroad company shall land its coal at Leiperville, where hours are required to unload a car without machinery, for the same amount per ton that it charges at Chester, three or four miles beyond, where it can unload a car a minute? It would be unreasonable not to allow them to make a reasonable discrimination for the difference, and it must be allowed.

I am sorry that I cannot go a little further into this question, but my time, I believe, is approaching very closely to an end. Now, all I want to say is that this report of the special committee is the framework of a better railroad article than the other, and that is all that the special committee claims for it. If there are any gentlemen on this floor who have been influenced in their votes upon the stupendous joke of the other day; if they have boasted on this floor that they have attached my county to Philadelphia to punish me for my action here, let me tell them that in my action here I am governed by my oath and want somebody who has no obliquity of moral vision to hold up before these men the definition of the word perjury.

Mr. BIGLER. For the first time in this Convention, Mr. President, I desire upon this subject to express my views somewhat at length. I shall, however, be as brief as possible; but what I have to say will be entirely without value unless it be listened to, and therefore I ask the attention of the Convention.

In the first place, I remark that the margin of difference between the committees on this subject are quite too narrow to justify the manifestation of feeling which we have witnessed in this body. Now, sir, I propose to look into those differences for a few minutes. I shall not discuss the peculiar language of the various sections, for that has been already and thoroughly done by the delegates on the other side of the House. I

shall only allude to the main substance in order to show that there is no sufficient ground for the feeling that has been manifested here, and I am sure I know that whatever difference there may be arises from an anxious desire on the part of all to do their duty, to do that which is due to the public and all that is reasonable towards the restriction and regulation of those institutions which, with all their errors, are essential to the public welfare.

As for section first, it is intended to provide for a general free railroad law, open to the use of all. In this the standing and select committees are agreed. I am very sure that it was not the purpose of the select committee upon this subject to impair the section in the least. The desire was that that section should give the right to any company or association to construct railroads in the State, and that it should not be competent for the Legislature to disturb that right. In short, that so far as the right was concerned it would be necessarily self-adjusting in the Constitution, and should not be disturbed. But it was evident, as must be confessed by all, that a railroad cannot be constructed without regulations; and the select committee, as also the standing committee, concluded that those regulations must come from the Legislature, for there is not a shade of difference, in my view, between the original section on this subject and the substitute; and it is probable that had the standing committee provided for a connection at the State lines between ex-territorial and State railroads, the section would have remained undisturbed. Now, sir, on that first essential point there is no difference. There is a little difference in the language to bring this desirable end about, but none as to substance; and therefore there is no reason for any feeling or excitement on the question. If the language as reported by the special committee be not ample, I shall surely go for making it so.

Now I notice section five. Section five is intended to protect free competition amongst railroads, and for that end it forbids that any railroad company should hold a controlling interest in the stock or bonds of any other railroad company or corporation owning or controlling a competing line. On that point both committees were agreed. There is some difference in language, but I do not see how the language could go further or be more explicit than that which the select committee have employed, viz:

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“No railroad company shall, directly or indirectly, consolidate with or hold a controlling interest in the stock or bonds of any other railroad corporation owning, operating or controlling a competing line of railroad, and the question of such competition shall, when demanded by the party complainant, be tried by a jury.”

I do not know how that could be made more complete.

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

Mr. BIGLER. I would prefer not to be interrupted, because my time is limited and I shall not have time to yield to interruptions.

The PRESIDENT. If it is in the power of the Chair to stop interruptions of the speaker on the floor, the Chair will do so.

Mr. BIGLER. Now as to section six, relating to transfer of stocks and books, &c.:

“Every railroad or canal corporation organized in this State, shall maintain an office therein, where transfers of its stocks shall be made, and where its books shall be kept.”

The standing committee carried that idea further, and I am free to say that it ought to be complete, and the select committee intended it should answer every purpose of the original section, and those gentlemen who have discussed it contend that it does answer it. Therefore as to section six there is no difference.

What next? Section eight points out what a railroad company is and what it may do.

“Railroad and canal companies shall not engage in any other business than that of common carriers, except in such manufactures and productions as are necessary to the equipment, maintenance and operation of their works, nor shall they hold lands, freehold or leasehold, except such as are necessary for the same purposes. But mining and manufacturing companies may construct and operate railroads not exceeding thirty miles in length.”

Now, sir, all this was in the original section. The closing clause in it was in a different form; that mining and manufacturing companies might construct roads for their own purposes to the extent of fifty miles. The special committee thought that was a longer road than was necessary, and would give too large a liberty.

Mr. S. A. PURVIANCE. Will the gentleman from Clearfield allow me to ask him a question?

The **PRESIDENT**. The Chair has already stated that he will not allow the delegate on the floor to be interrupted.

Mr. BIGLER. Section eight, relating to the rights of municipal governments, was reported back without any amendment. Therefore there was no difference on that point.

There was no difference about the section relating to the taxation of the property of corporations, as also that relating to the transfer of the former duties of the Auditor General to the Secretary of Internal Affairs, except that the select committee took the liberty to suggest that each of those sections belonged to other parts of the Constitution.

Now, Mr. President, we approach points of more interest. There has been far more of mere intimation and insinuation than is becoming in a deliberative body about railroad sides and railroad interests. I belong to no side.

The **PRESIDENT**. The Chair is compelled to remind the gentleman that his time has expired, unless the House choose to extend it.

Mr. CALVIN. I hope the gentleman will have leave to go on.

Mr. BIGLER. I shall be in an exceedingly awkward position if I am cut off at this point.

Mr. ALRICKS. I move that the gentleman's time be extended.

The motion was agreed to.

Mr. BIGLER. Let us see how much room there is for this kind of indulgence on the one side or the other. Every fair-minded man knows and will confess that section seven and section ten as numbered in the original article, are the sections most offensive to the railroad men of this city and of this State, and yet as to those sections the special committee and the standing committee are agreed. As to those two sections there was no amendment. The select committee reported them back as they had been committed to them in every essential feature. Section seven is that which separates the officers of railroad companies entirely and completely from the transportation business, and section ten, in the report of the select committee, is that which denies to railroad companies any friendly legislation until such railroad companies accept all the provisions of this Constitution, including this article, if it be ratified. About that there was no difference. The select committee reported that back just as it came into their hands; and, as I un-

derstand, those are the two sections that have been most unpleasant to the railroads and to the railroad men; I do not mean to use that term as applicable to anybody in this Convention but as to actual railroad men.

I voted for this section certainly. I voted for it with entire satisfaction, because I could see and everybody could see that under the present practice the beneficiaries of the contract are on both sides of it; it amounts virtually to making a contract with themselves; and whilst I have always felt that it was not the special business of this Convention to look after the interests of stockholders, because they ought to take care of themselves and they have the power to do it, yet in a case so manifest as this, and which had become so established, it did seem that extraordinary steps were necessary.

Now, Mr. President, we come to the differences with regard to sections three and four. As to those, they are very broad, very significant, very important. One of these sections—section four—relates to equal rights and to equal facilities of transportation to all individuals, companies and corporations engaged in that business. I say, for one of that select committee, that I do not intend to yield anything on that point. As you are aware, sir, it is maintained that equality amongst companies and individuals engaged in transporting is contained in this report. I may say very properly, for members of the committee remember it distinctly, that I suggested that probably it would be more judicious to keep those questions entirely distinct from each other, the protection to facilities to have no connection whatever with that section which regulates the rates of transportation. But I do not agree that there is any deficiency in the language as we reported it. It is ample and complete and does contain equality and does forbid discrimination in favor of one against another. That is a point upon which I have felt a great deal of interest, for I live in a section of the State where the facilities are insufficient, where there is a contest every day for facilities; not so much for motive power as for cars; and it is important, therefore, that the strict principle of equity prevail, for there are no transporting companies there; the railroad company transports, and there the contest is between the individual transporters and the owners of the rail-

roads; and I know, as my friends over the way know, that there is an impression amongst many that certain companies get greater facilities than others. I know, sir, that a section from any authoritative quarter, whether conventional or legislative, that would give them entire equality, would give some men rights that they do not enjoy, and it would be sure to create a better state of feeling.

What next? The remainder of section three relates to the rates of transportation and that is in truth all the essential difference there is in this report, in either the text that is before us or the amendment that is pending. And here there is an essential difference, one which I know has received already the grave attention of this body. The section in the pending amendment is arbitrarily against discrimination. I am willing to go so far in that direction as we can go practically and safely. The text before us, the report of the committee of seven, is quite as searching and quite as thorough as the original, except that it only interdicts "undue and unreasonable discriminations;" and to be at all understood, I must look into the question of what "undue and unreasonable discriminations" would be, or how they would not be unreasonable.

In the first place, the business that we will call the business of the State generally, the local business of the State, it is almost impossible to get along without some discrimination. You must do injustice somewhere. You must do injustice to the stockholders and injustice to some owners unless you discriminate to a moderate extent. Every man that has ever noticed this subject of railroad freights knows the difference between the cost of carrying tonnage where it is to be broken along the entire line on which the cars are loaded and the train made up. Those trains are made up of tonnage to be discharged at a distance of five miles or ten miles or twenty miles. What follows? Either the cars must be dropped off at these various stations, be collected and their use lost for many days, and thus the expense increased; or else the train must be detained in order that the cars may at these several stations be unloaded and then proceed, taking the empty cars along. Then, sir, you take on the same line for the same distance the cars loaded and the trains made up shipped to the same station, whether it be a longer distance or a shorter distance, and every man

can see that the difference in the cost of such transportation must necessarily be very striking.

Not only that, but you will see that where there is a large amount of tonnage it often happens that other considerations come in that would make a reasonable discrimination. That is, where the trade is evenly balanced, where there would be about as much tonnage in the one direction as in the other, so that the cars could go loaded all the while. Those are circumstances that perhaps would be well expressed as "like circumstances," because that phrase is as strong and fair as anything that you can say upon this subject. You might say that "transportation should be equal under like circumstances." These terms would have reference to quantity. They would have reference to the distances, and in that way would approach equality. But, sir, you might as well maintain that it is an unjust discrimination to retail goods for higher prices than when they are sold at wholesale. That is akin to this very same thing. Now, what we have reported gives just that indispensable latitude that is necessary to keep the business in working operation. Without it injustice must fall somewhere. The term which I have already repeated, "like circumstances," would reach this about as well as what we have before us.

Now, sir, we go somewhat beyond all that, and we look at the effect of the arbitrary interdiction of discrimination as applicable to tonnage without the State. I must be pardoned for an allusion to what I know to have been the consideration when this great avenue of ours was constructed. I say, and I think every man who has knowledge of the circumstances will endorse the truth of what I allege, that the great purpose was the trade of the west, that the idea of getting the trade of the west for our Atlantic city put into that enterprise twenty dollars or fifty dollars where every other consideration put in one. The Pennsylvania railroad company has followed up that purpose in good faith. It has endeavored with wonderful energy and wonderful success to carry out that purpose, and it has drawn to this city the trade and commerce and business which would have been utterly lost had it not carried out this policy. It has added largely to the wealth and power of this State.

I am willing to vote for this term "unreasonable" for the purpose of allowing

the company in some measure to continue that business. They must have some way of carrying it out, or if we make it absolute, they will be driven to the necessity of evading it, or else lose the through business, and thus be compelled to impose additional charges on home business.

The same consideration which I have already mentioned, with reference to local business will come in at this point also, although I shall not repeat it as fully. Any man who knows anything about railroad business knows that you can transport goods for a longer distance at a less *pro rata* rate than you can for a short one. You take transportation from all western points, and it is that of which I have been speaking. There is, annually, a large quantity of tonnage, and it affords an opportunity of running full trains. Thus the reciprocity in trade is very heavy. Herein is the opportunity afforded from the commercial cities of the west to take the cars back loaded instead of taking them back empty. Why, any man who has dealt in the most ordinary business knows what a marked difference there is in freighting where there is this reciprocity in tonnage of any kind, where the cars run loaded in both directions upon a railroad, and that where the business and trade of a road is all in the same direction, and therefore the cars have to return empty. Is there not some necessity for a reasonable discrimination when business may be carried on to the extent I have mentioned?

The railroad companies are unfortunate, indeed, if there is a disposition in this body to go further than I would go. I am willing they may go on for this western trade to any extent they please; they may do it at the sacrifice of the profits of their stockholders if they see proper to do so; but there is a point at which, for one, I will not agree that they shall go or encroach upon: They shall not unduly tax the inter-State business to make up money which they may lose in struggling for this outer trade. There is where I would stop it. I cannot agree that it should go beyond this point.

And now take these two questions as they stand before us. I have said, and I have said only what I am clear to correct, there is no essential difference between these two propositions except the words "undue or unreasonable discriminations," and an absolute discrimination. I should have given up this long ago if I

could have seen how to get out of it, how to relieve the commerce and trade of the country, how we could either work at home or do ex-territorial business.

Sir, there is my position in regard to this whole question in a few words. I am for separating the officers of the company from transportation so that they shall not have anything to do with it, and I have drawn an amendment under which an agreement made constituting transportation companies or fixing the commission of transportation companies, should require the approval of the stockholders before it shall go into operation.

Now, I have a word to say in reference to some of the matter left out of this report. Some of it would have no application. I would not object to a real measure of restraint upon abuses.

The PRESIDENT. The delegate has occupied now the space occupied by the delegate from York.

Mr. BIGLER. In a few minutes I shall be done.

Mr. CUYLER. I move that the gentleman have leave to proceed.

Mr. BIGLER. I will therefore—

Mr. BIDDLE. I move that he have as much time as he wants.

The PRESIDENT. Hereafter the Chair will not leave it to the House to allow gentlemen to proceed.

Mr. BIGLER. I have never talked on any subject at this length and never will again. ["Go on." "Go on."]

I was about to dismiss this whole subject by alluding to a few of the features which the committee left out of their report, and they did so because in their judgment they had no practical operation. I called the attention of the Convention to section nine once before. In its phrase the first part of it is all very well, but I can see no reasons for retaining the first part, because it was supplied in the preceding section. I can see no reason for retaining the latter part because it does not apply everywhere. It was drawn up with the best motives in the world. It was presented there to accomplish a good purpose; but the gentleman who drew it did not understand the forms that exist between these railroad companies and the transportation companies. You do not restrain anything when you say that the rates shall be more than the regular rates: you do not reach the point. Transportation companies carry goods at the regular rates and they get their profits from the commission allowed below those

rates. Now, what becomes of section nine? As I said the other day, it is barely possible that it might interfere with the delivery, the business of express companies; but I could see no other application.

Now, sir, one other idea, and that I feel inclined to express because I feel that in truth never was there any intention or any purpose or any thought, so far as I know, of any one imposing any indignity on the standing committee, on this subject. There is really no foundation for any such thought. If there be, it must come from the body itself and upon its votes, for the Convention rejected more than one-half of the report of the standing committee on this subject, and of what remains far more than the half of it was put in by the Convention; section after section was put in by the Convention. And, Mr. President, it ought to have been said long ago, in justice to that standing committee, in justice to the chairman of the committee, that the sections are somewhat crude; that the matter is not as condensed as it ought to be, for the reason that it was made up in separate sections in this body. The chairman of that committee is not accountable for that. The only possible criticism that could fall upon him would be that he might have asked the body to recommit it for the purpose of condensation in the matter which the Convention itself had imposed upon the article and not that reported by the committee.

Now, sir, I close with a suggestion to which I want to ask your attention, if you please. I have no purpose except to facilitate the action of this body and to bring it to the best possible result. I always prefer and all my life have preferred to treat criticisms, particularly in the newspapers, or anywhere else, with silence; let them go; time will correct all these evils. Now, I want those gentlemen who are the advocates of the original report to notice particularly what I am going to say. Here we are with the report of the special committee as the text, and the article as prepared by the standing committee overhanging it as an amendment. It has been said on the one hand that this text is easier corrected. That is my own belief. It is said on the other that it is due that the original article should be voted in.

Now, Mr. President, whichever alternative the Convention may decide to adopt will lead to a great deal of protraction here; but I can see a solution and do it

according to the judgment of the Convention, do it promptly, do it pleasantly, and that would be simply to take what is parliamentary law and what has been the ruling and practice of Congress on the subject, and under that the friends of the text as it stands, with the consent of the Convention, would have a right to go on and perfect it, take out that which is wrong, put in that which is wanting, and the friends of the original article have entire control of it. They can modify it as they please; they are masters of the situation in the matter. They can modify. They can see now what discussion has developed, wherein it is deficient. They see wherein this committee objected to it, and they can modify, they can perfect it, if they please; and thus we should have the two articles, the original one by which the standing committee stand and the report of the special committee, in juxtaposition, and then the Convention select one or the other, and that would be the end of the matter.

That would be the practice in Congress. The text cannot be disturbed; it is there; the question on it must be taken; but under all parliamentary usage, under all the practice in Congress, it is the right of the friends of the text to amend it before you can take the question upon superseding it. Here that right has not been denied exactly, but it has been held that after a substitute was voted in, superseding the entire matter, it was still amendable. The very purpose of the rule of Congress is that there may be a contest between the propositions in their most perfect form. If gentlemen are willing to adopt this suggestion, I know that it is the most dignified, the most expeditious, and altogether the most pleasant way of perfecting these propositions. If I cannot get this one for which I intend to vote I want the other in a somewhat perfected form, and it will be an easy matter to put it in such a shape that I shall scarcely care which prevails; but I do not think the gentlemen on the other side should insist upon putting that mass of matter into the Constitution as it stands now.

That is the whole of my suggestion. I make it in good faith, and make it because I think it will subserve the best interests of the State.

Mr. J. N. PURVIANCE. Mr. President: Before the vote is taken I desire to make a few remarks. Already the subject has been ably discussed by the most eminent gentlemen of the Convention, but I claim

the right to give my reasons briefly for the course that I feel it my duty to take in the matter as now presented.

When the subject was referred to a select committee on Friday last, it was the clear understanding of the Convention that the duty of the committee was simply to revise and modify the article then under consideration, make it constitutional-like in expression, but to retain in substance all the provisions of the article; it was to correct in form, but in no matter of substance. So the matter went to the select committee, and their report, widely differing in many respects, surprised nearly every member of the Convention, in this, that it bore scarcely any similarity to the original, and omitted whole sections that had been voted upon and received the sanction of a large majority of the Convention.

The section prohibiting the granting of free passes was wholly stricken out. When members saw that, distrust embraced the whole report. If there was any one thing well and perfectly understood to form a part of the report it was an inhibition of the free pass system. It was elaborately discussed and decided.

The clear and forcible remarks of the gentleman from the city, Mr. Knight, showed plainly the evils that grew out of this much abused system. First the immense loss to the stockholders; I think he said five hundred thousand dollars a year, and the corrupting influences which it spread throughout the Commonwealth. Testimony from such a source cannot but be entitled to great weight; himself the president of the American steamship company, a line of ships connecting and doing business with the Pennsylvania railroad company, carrying our products from all parts of our country to every part of Europe. The views expressed by other gentlemen, Governors Bigler and Curtin and others, whose long experience at Harrisburg satisfied them of the demoralizing effects of the system. With all this light before the committee where is to be found any justification or excuse for failing to report the section prohibiting free passes as contained in the original report, or a section similar and equally prohibitory. Yet we have not a line or word from the committee on the subject.

The granting of free passes to persons in high official positions of the State, to Governors and heads of departments, to judges and members of the Senate and

House, to city councils and editors—it is weakness to suppose it is not for a purpose beyond mere courtesy, and the intelligent mind at once embraces the object and every honest heart condemns it. But it don't stop here. Others, as well as officials, have the privileges of free travel conferred upon them. Suppose we take the merchant who makes his free trips to Philadelphia, New York, &c., some eight or ten times a year, and contrast him with his neighbor in the same business, who has not the same benefit—yet each pay equally for transportation on his merchandise—would not this be an unjust discrimination affecting, to some extent, equality of prices and profits. And the loss in this way, as well as that referred to by the gentleman from the city, Mr. Knight, is after all no loss to the company, for they make it up by taxing on freight and passengers extra and higher rates. It is, therefore, the loss of the business man, of the community at large, and not that of the stockholders wholly. I am not going to repeat the many and able arguments which have been made upon this floor, but if gentlemen will rightly consider them in the full scope of their application they would see the necessity of a remedy, and that now is the time to apply it. The quotation of Judge Black, so often repeated, has its force here: "Gifts blindeth the eyes and perverteth the judgment," and if he had referred to I. Samuel, chapter 12, he would have found one equally applicable and more appropriate in expression: "Of whose hands have I received any bribe to blind mine eyes therewith."

It is not only true that members of the Legislature get free tickets or passes for themselves, but they are in some instances, as I am informed, furnished with scores of them for others, and for what purpose? Often for political purposes, and to perpetuate political power. In the hands of bad men they may be and have been so used.

Another matter in the original report which, in my opinion, should be retained, is the right of the bondholders and stockholders to inspect the books of the company. Yet this is wholly omitted in the report of the select committee. This had been voted on and received the deliberate sanction of the Convention. The committee were aware of the fact that a motion to strike out the clause authorizing creditors to inspect the books was not sustained. The expression of the Conven-

tion was clearly in favor of the section as it stood in the original article, that is, that the bondholders, stockholders or any other person having a pecuniary interest in the corporation, should have the privilege of inspecting the books. Yet the select committee have stricken all out, so that the books would be closed and sealed from the view of any one except the officers of the corporation. Other important changes have been made which I deem it unnecessary to refer to, as they have been clearly pointed out and ably commented upon by the chairman of the committee, Mr. Cochran, and by the distinguished gentleman from the city (Mr. Biddle.) Enough, surely, is shown to satisfy the Convention that the report of the select committee should not be adopted. It is a marked leading feature that characterizes the two reports, and one making a material difference, that by the article reported by the select committee the Legislature has power to regulate the terms and conditions of railroads, whilst by the article reported by the standing committee the people in their organic law limits the power of the Legislature, and prescribes the terms which shall regulate the operation of railroads. The wide difference here is too great not to be perceived by any one at a glance.

No one more than myself more readily concedes the great benefit which railroads have conferred upon our State. The rich mineral treasure that has been developed, the industry, development, prosperity and material wealth, are in a great measure the result of our extensive railroad system. And our people, in all parts of the State, desire to continue to foster, protect and encourage, not only the present railroad corporations, but by all reasonable and proper means in their power to encourage all future railroad enterprises, and in no way to embarrass their operations by unnecessary limitations and restrictions. But they do demand that, as common carriers, they should confine their business to the legitimate purposes for which they were chartered; that they should not engage in the business of mining, manufacturing or other business which come into competition with individuals or partnerships in business and trade of the people generally. And all motives and interest discriminating in charges for transportation of freight should be effectually prohibited. They should promote and assist private enter-

prise, not obstruct and destroy it by irresistible competition.

Mr. BEZBE. The time I shall occupy will be short. I do not expect to enlighten the Convention upon anything that is now before it, and I do not claim that I can add aught to what has been said by the able delegates who has spoken on this subject; but I happen to stand here as one of the representatives of the people who are most specially interested in this matter that directly concerns a large number of citizens of the Commonwealth and a large amount of their capital. I therefore cannot let this opportunity pass by without giving the reasons why I shall support the motion now pending in opposition to the report brought in by the special committee.

In the wisdom of the late President of this Convention, a man of pre-eminent ability and integrity, I was made one of the members of the original Committee on Railroads and Canals. I am sure it was not because of my acquaintance with railroads and their management; but whatever the cause was, after being placed upon the committee, I addressed myself to the duties of that committee at least with the honest intention of representing the people and defending their rights. I knew I was ignorant of the subject and sought instruction from the wisdom of others, and in consequence of my ignorance, I adhered to the position, during all our three months of wearisome deliberation in the Committee on Railroads and Canals, of representing the opinions of the other gentlemen in this body, coming from the various portions of the Commonwealth, in regard to the abuses of the railroad system. That committee, following largely in the same line, reported to this Convention an article expressive of the wisdom of this body as expressed by them in resolutions which members introduced on the subject and had referred to that committee.

The article reported was the embodiment of those resolutions presented, many of them by the most eminent delegates on this floor. It is averred that it is verbose, and some gentlemen say it is crude, and still other gentlemen go so far as to say that it is the emanation of ignorance. I do not know that it is. Certainly, if it is, it is the embodiment of the ignorance of this Convention as expressed in their resolutions; and after it was submitted, it was considered in committee of the

whole where the full privilege was afforded to the ability of all the eminent men of the body who have studied this special subject, to substitute the report which has been made by the special committee, or to amend it in any respect, to change it in phraseology or in substance, and again on the second reading. Why was it not done? The gentleman from Lycoming (Mr. Armstrong) long ago, instead of bringing his well known abilities to the improvement of this report, suggested and suggested, so that it became almost a conviction in the minds of this body, that instead of having the article improved in this Convention, it was all along designed to have it done in the private room of a select committee. And it was so done, and we have had the emanation of that committee in the shape of the article that is now before us.

The gentleman from Lycoming, (Mr. Armstrong,) in speaking of his report, speaks of it as an orange, and says it is not necessary to describe its qualities, &c., as our report does. Let me for a moment use that orange. He finds it ripe, round, fair and complete, takes it into the room of the special committee, and with the sharp blade of his criticism punctures the orange, squeezes gently therefrom its pulp, juice and seeds, carefully closes the incision, and then rounding it out in form, after throwing the substance removed under the table, where it now undoubtedly lies, comes into the Convention, and presenting the shrivelled skin and fiber, says: "Behold, your orange, complete in all its parts, but only beautifully condensed!"

I do not hesitate to say, although not in any offensive sense whatever, that taking this Convention as a representative body, representing the opinions of the people of the Commonwealth, this special committee is composed of men who would be regarded by the people as what is known as "railroad men," although I do not mean to state or suppose that they were actuated by anything except a conviction of duty on their part, and perhaps they had a more intelligent understanding of the subject than the committee which the late noble President of the Convention saw fit to appoint.

But, sir, the great complaint of the people of Pennsylvania has been that individuals, as has been remarked so often on this floor, have been discriminated against, in favor of corporations. We have it again in this report. What is it? In the first

place, under the first section of their report, railroad companies or associations may run their railroads when and where they please, but an individual with capital cannot embark in such an enterprise. My friend from Delaware (Mr. Broomall) suggests as a reason for this omission that some selfish individual in his malice might run a railroad in front of his door, a thing, by the way, that is done every day by corporations. I ask him what probability there is of a single individual, surrounded by all local influences, subject to public opinion and residing within the district, doing such a thing, in comparison with a soulless corporation, who, as a gentleman remarked the other day, had neither a soul to be saved nor a place to be kicked, and whose only object is the attainment of money.

Again, sir, in section four you find there again the individual is left out. So again in section five, and so on through this whole report, the distinction is kept up. I wish to ask the question right here, why in the report of this committee the first section as embodied by itself and presented by the gentleman from Delaware was not included in this report. Wherein is this better? It has been alleged here time and again that there is a right, as asserted by the gentleman from Lycoming. But how and who controls it? Who says what is the basis of that right? The Pennsylvania Legislature. He says that is all right. I concede that it is if it is in proper phraseology. If the gentleman will please look at the last section he will find there a general legislative provision applicable to the whole article. Now, will any pretend to deny that the special provision in the first section was intended for the courts to construe as special to that section only, and vesting the control exclusively in the Legislature.

I know there are many difficulties surrounding this subject. I know that in this Convention there are honest differences of opinion, and I should like to get at a middle ground; but what I do want to know is, what this committee have provided in this special report whereby the millions of interests involved in the oil production of Pennsylvania are to be protected from being governed, controlled and operated subject to the city of Cleveland, Ohio? And when the gentleman will show me that the competing cities of Erie and Pittsburg, and the whole oil region, have been provided for, I want to know how they have been provided for.

I am aware that in the matter of discrimination as between Philadelphia and Chicago, as between long distances, there should be a difference; but the existing condition of things allows just the results that I have heretofore described in a brief speech that I made.

Now, sir, I am aware that the interests of the city of Philadelphia are somewhat diverse from those of the rest of the State in that respect, it being a vast mart of commerce, it being a cosmopolitan city, it having desired to reach out for the control of the whole trade not only of the Commonwealth, but of the vast markets of the west, and I am aware that Philadelphia is apt to regard itself as Philadelphia only, and the Commonwealth of Pennsylvania as its *proft*. But, sir, if this Convention in its wisdom can so arrange as to redress gross wrongs of the kind I have complained of, then I should be willing to vote for anything that will accomplish the purpose; but I maintain that neither this section three nor any other section in this report has a single element in it to remedy those wrongs.

Mr. CARTER. Mr. President: I do not rise for the purpose of discussing this matter in controversy. I do not flatter myself that anything I could say could throw the slightest possible light on the subject. In fact, I believe that there is no gentleman in this Convention who can do so at this time. I believe the subject is utterly exhausted. Even the gentleman from Lycoming, with his winning way and his great talents, I venture to say, offered no new fact for our consideration. So, sir, I should think it the height of egotism if I should attempt or propose to enter into the argument at this stage of the matter. In fact, it appears to me now that we are going around this "eternal, weary, never-ending grind," as Mantalini said, until it has become almost like the Tartar's prayer, which is written on a strip of paper and put in a box to be turned by the wind. And I might say that the speeches of gentlemen command apparently but little more attention than that wind-mill; nor do I presume they will produce much more effect. We have reached the time for action, to the time for voting, and I should not have risen to my feet except to vindicate to some extent, I may say, the truth of history, and to notice a remark made by the gentleman from Delaware (Mr. Broomall) in his speech last evening. That speech grated much upon my feelings at the time,

and I believe it proper to put that matter right before this Convention and before the community, and to afford, in fact, an antidote to his bane.

He thought proper, for some purpose—I know not what, because it certainly did not appear, to me at least, at all germane to the subject at issue—to get up the question of our increase of salary. He went on to say that we were no better than the Legislature. I do not know that any of us have claimed to be better; I do not know that that is a question for our determination. And he then said that we had done what we blamed them and some other bodies for doing, that we had increased our salary. Now, sir, I desire to protest against his statement of the case in the name of this Convention. There is no parity of existing circumstances, none at all; the cases are dissimilar utterly. The Legislature had repealed the law granting us any salary, and the duty was devolved upon us as a body to fix our salary; and the only question for us to determine was whether the sum proposed was inadequate or excessive or not. It is a gross insult to the people of Pennsylvania to say that they desire this body to serve for less than an adequate compensation, and though I did not vote for the sum fixed, yet I do now say that in my opinion the sum is about right.

Now, sir, I will not designate this appeal of my friend as a kind of demagoguism. I presume that some censorious persons might say that the gentleman was so influenced, and further would add that he would hold on as tenaciously to his salary, to the last cent of it, as any of the rest of us. I do not say so, but there may be some censorious persons who would.

The gentleman thought proper to refer to that classic piece of history, the celebrated bull, which opposed the railroad in olden time, and to show the height to which the gentleman rose in his conception of this great question he likened the demand of the people of this Commonwealth for railroad reform to the expiring roar which has been reverberating over the hills and valleys of Pennsylvania from that time to this.

Mr. BROOMALL. I rise to explain. I did not compare the gentleman from Lancaster to a bull at all.

Mr. CARTER. I did not say he did, nor should I care, but I do say he tried to cast contempt on the railroad reformers. The gentleman, if I understood him, brought

up that historic bull for the third or fourth time—Slaymaker's bull, of my own county—and he said that the expiring roar of that bull was reverberating and had been reverberating over the hills and valleys of this State from that time to this, and that its expiring echo was heard through these halls yet. Is that the manner in which the gentleman treats the expression that has been given over this Commonwealth and which has been responded to by a large portion at least of this Convention who desire that these great monopolies and great corporations should be held in limited and proper restraints? Is that the height to which the gentleman raises his conception of this great issue?

Again, sir, yesterday he spoke of the tenth section, or free pass section, which was commended by the distinguished gentleman from Centre, (Gov. Curtin,) who had had great opportunities for observation of the evil of granting free passes, a section that was offered by the gentleman from Philadelphia, (Mr. Knight,) who could speak so fully of its practical bad effect on the corporations themselves of the free pass system; and to show how this gentleman, one of the extra wise discerning seven, realized the circumstances under which he was placed, he said this section is something about as important as his taking a ride in a buggy to Media or giving a ride to a friend. That was the height he got on a matter which, as has been stated here, has been a most corrupting influence. I suppose he was referring, when the buggy was brought to his mind, to some remarks of the ex-Chief Justice, who spoke of the necessity of avoiding the appearance of scandal referred to in a certain ride of his own. So I am not surprised that the tenth section was left out of their report.

There was another roar I will tell him of. You all have heard, doubtless, of Sidney Smith, the great humorist. Well, sir, on a certain occasion, having some legal gentlemen, his friends, about him, in the early days of railroads, about contemporary with Slaymaker's bull, these gentlemen were speaking of the railroads and of the roar of the railroad whistle. One of the lawyers asked him: "What is this like, Mr. Smith? Can you tell us what it resembles? It is a new sound." Said he, "I can only compare it to the roar that a lawyer will give when the devil first gets hold of him." [Laugh-

ter.] Now, that does not apply here. They are all good lawyers here, and whether it applies to one who might act the demagogue—not that our friend did; oh, no—by such appeals, I do not pretend to determine. And so there is another roar for him, and thus would I lay the ghost of the animal forever. Did he mean that some of the gentlemen on the other side of the House speak in a loud tone of voice? Was it also in that sense? Why, he himself roars as loud as any one I know. He roars as loud as I do, and that is tolerably loud.

But, Mr. President, there is a serious aspect to this question. The gentleman from Lycoming, whom I respect so much, and for whose abilities I entertain the highest possible respect, closed his long and elaborate remarks with a portrayal of the great blessings and benefits that railroads had conferred upon this Commonwealth. No one calls that fact in question. But, sir, they have a capacity for harm as well as for good. The material wealth of this State is progressing enormously, and quite fast enough for the liberties of the people. There are other and high moral considerations that should be taken also into account. Is it not true that—

"Ill fares the land, to hastening ills a prey,
Where wealth accumulates and men decay."

Is there not something in that idea? If the benefits of railroads be accompanied with corruption in high places, if they have been obtained at the loss of those principles of honesty which alone have made our Commonwealth what it is founded as it is upon the eternal rock of truth, of purity and justice, if they have been in the past an agency for destroying that purity, it is time for us, if we can, to furnish an adequate remedy.

Sir, the time was in the old Jacksonian days when the resonant voice of the Democratic party was heard ringing throughout the land, and finding an awakening response in the hearts of the people, with the cry, "Beware of the danger of monopolies." What has become of that cry now? Do we ever hear it now? Do we find the leaders respond as they did of yore, or do we not? Where, oh where, is the old Tenth Legion? Where do you now find a response to that cry, "Beware of the danger and power of monopolies"? Remember, sir, that at the time that cry was so potent there was less than \$40,000,000 of concentrated capital

brought to bear upon the people; now we have \$600,000,000, and it would be utterly incredible to believe that the power of this vast aggregation of capital has not been exercised for wrong. Sir, it has been. There is no doubt of it. It has been admitted on this floor that such has been the case. We desire to impose such checks as are necessary without crippling the material interests of the State or of these institutions; and in saying that the whole story is told as to my course here, and I suppose of many others, in this matter.

The PRESIDENT. The gentleman's time has expired.

Mr. PURMAN. Mr. President: It is hardly possible that at this stage of the discussion of this question I shall be able to say anything which has not been already better said than I can hope to say it; but as the reference of this article to the special committee created some commotion at the time and has continued to produce some excitement since, and as I voted for that reference, I feel it to be due to myself and to the people that I should state the reasons which induced me to vote for that reference, and the reasons which will induce me to cast the vote that I shall give when the question comes to be voted upon.

I believed then, I believe now, that the article which was under consideration could be improved. I believed then, and I believe now, that it is the duty of this Convention to make their work as perfect as possible. With these impressions I voted to refer the article to the committee appointed by the Chair. That committee have made a report. I have given that report some consideration, as well as the article which it is proposed to take the place of, and with all due respect and deference to the distinguished gentleman who constituted that committee, I am compelled to say that the report is not exactly what I expected. I say here that no gentleman on this floor entertains a higher opinion of the ability and of the proposes that actuated the gentlemen constituting that special committee than myself, and I may be permitted to add that I think the feeling that has been exhibited both in and out of the Convention in certain quarters in regard to the action of the Convention in referring this article is entirely unnecessary, and it does seem to me that is uncalled for. Certainly the time of this Convention for two or three days could not be better spent than in perfecting an article that deals

with such an important interest to the people of this State as the railroads.

Mr. President, it is not true that the people of Pennsylvania are unfriendly to railroads. It is not true that the people of Pennsylvania are the enemies of railroads. On the contrary they desire their successful operation. They desire them to be built where they are not yet built, and they desire them to be constructed all over the Commonwealth for the purpose of developing the State; but at the same time they desire to keep these corporations as their servants. Such they created them, and they desire to retain the mastery themselves; the people to be the masters and the railroads and corporations to be their servants. That is the true position and the true relation of the people to the corporations and of the corporations of the people. Hence it is expected that we will put an article in the Constitution on railroads that will, to some extent at least, remove the causes of complaint and redress the actual and some of the supposed grievances that the people of the Commonwealth have been laboring under heretofore.

One of the great grievances that have existed in Pennsylvania for several years has already been redressed in the article on legislation. The article on legislation undoubtedly will be ratified by the people. In that article it is declared that there shall be no special or local legislation, none creating, renewing, or extending the life and privileges of corporations. That settles one of the disputes that have existed between the railroads and the people for years in the Legislature. One of the complaints of the people of Pennsylvania has been that the railroad companies, by reason of their ramification all over the State, have an interest in almost all the counties of the same. The people of these counties being interested in those railroads their representatives represent the interests of the roads, and thereby the roads have become too strong for the interests of the people outside of railroad corporations, so much so, that it is difficult to pass any general or special law in the Legislature that the railroads were unfriendly to. That power of the railroads I say has been stricken down by the article on legislation.

Another complaint that has been made on the part of the people is that where the railroads that are in existence desire to keep other corporations or other railroads out of existence, they were too

strong in the Legislature to permit the people to get special charters for the construction of railroads under our general railroad law, and that having the strength they had in the Legislature they had dictated the terms of our general railroad law, and that it was so severe as to prevent the construction of railroads within the Commonwealth.

Now, sir, in the article as reported by the standing committee that right is secured to the people of the State, and I undertake to say that that article is much preferable to the one reported by the select committee. In the article reported by the standing committee the right exists. Of course, that right may be regulated by the Legislature. In the report of the special committee they have given the right to construct roads by corporations and associations, not by individuals, subject to such regulations as are or shall be prescribed by law.

Now, sir, I wish to call the attention of the Convention to one feature in the first section of the article as reported by the select committee of seven. In that they bring into the Constitution all the laws that have now been enacted in relation to railroads, and make them so far and so much of the Constitution as would take it out of the power of the Legislature to repeal them. In that I say the article of the select committee is not as acceptable to the people as the article reported by the standing committee.

Another cause of complaint has been that unjust discriminations have been made by the railroads in favor of transportation companies and corporations of whom the principal railroad men were the constituent members. The article from the standing committee removed that objection. It is perfectly proper that the railroads should have a right to exercise some discrimination in classes. For instance, they should have the right to discriminate and to send passengers over freight, and they should have the right to discriminate between different classes of freight, to send live stock when they would not send coal and oil and such like. Such discriminations are perfectly proper. But it is proclaimed that they have exercised a discrimination against one interest or one shipping merchant in favor of another. That cannot exist under the article as reported by the standing committee. The article as reported by the standing committee also secures perfect equality, both to passengers and to transportation

companies. It also secures the right of the stockholders and bondholders to an inspection of the books. That section, as reported by the standing committee, is preferable to the one reported by the select committee. The article as reported by the select committee goes no further than you have the right to do now if you brought a suit in court.

The PRESIDENT. The gentleman's time has expired.

Mr. CURTIN. Mr. President: I doubt very much indeed whether it is within the limits of the wisdom of this Convention to provide any possible provision which may reach to the future of the history of railroads in this Commonwealth, containing on the one hand all the proper restraints on such corporations and protecting the rights of those who engage in transporting over them on the other. I do not believe that either of these reports comes up to the requirements of public sentiment, or the necessity for offering to the people an article of proper restraint upon railroad corporations and railroad powers; and yet it would be almost impossible to refer these two articles to any committee of this body and for that committee to bring into the body one more acceptable than either.

I do not find a great deal of difference between these two articles. The delegate from Dauphin (Mr. MacVeagh) yesterday remarked that he seemed to occupy a kind of middle ground, and that there seemed to be a party or a fragment of this Convention occupying that ground, while those who favored railroads to the extreme were on one hand and those who desired to put upon them such restraints as were offered in the beginning of this Convention were on the other.

I do not know but that I am about with the gentleman in that respect; but I am not in favor of giving either of these articles to the public in their present condition. I am in favor of staying here and amending these articles until at least we are satisfied that we have done the very best thing we can for the protection of the interests of the people of the Commonwealth; and until we have perfected that work we have no right to go away from this Hall. The question of the consumption of time should not enter into the deliberations of a body like this when they are dealing with material interests of such vast consequence to their constituency. Nor can I understand how it is that any

change of sentiment on any subject connected with railroads should throw this Convention into a state of excitement or why it should cause crimination and recrimination; but in fact for two or three days one would almost suppose that the enlightened chairman of the Railroad Committee (Mr. Cochran) was on trial and that he was assailed on one side and that gentlemen were rushing to his defence on the other.

I have known the chairman of that committee for some twenty-five or thirty years, and he is well known all over the Commonwealth, and I do not think his character requires any defence here. Certainly any defence of a gentleman's character, that is volunteered before any one assails him, is in bad taste. The mere fact that this article is the creation of the chairman of the Committee on Railroads, that he brought it before this body, and that the body defeated it, while it may cause mortification or regret to him, is no consideration to influence the body. No man in this Convention would desire to hurt his feelings or the more sensitive feelings of the advocate of the railroad article from Allegheny (Mr. Howard.) I should indeed be sorry to wound the feelings of any man in this House; but I would have the body go on in the pleasant and amiable temper in which it has usually transacted its business, until we submit our work to the people; but that there should be so much pride in any article offered by the chairman of any committee or the members of any committee that the rejection of their work by the Convention should so mortify them as to be an argument why the Convention should not reject it, I do not at all subscribe to.

This is a deliberative body of one hundred and thirty-three men gathered from all over this State to perform a high and great trust for the people, our constituency; and it is not for us to turn aside from our deliberations for the public good, to restrain wrong, to elevate morality, to deal with the material interests and wealth and prosperity of the people, because any man's feelings may be concerned in behalf of that which he has prepared. Why, sir, the chairman of the Committee on the Judiciary (Mr. Armstrong) found his article changed and distorted by the action of this Convention; and yet there was no attempt to defend him personally, nor did that learned gentleman show any sensitiveness because in

the wisdom of this Convention they changed his article. The article of my learned friend from Chester (Mr. Darlington) on education was changed—not modified but changed, even unto sealing up the fountains of charity in the State, and drying up the benevolence of this people; and yet the delegate from Chester did not complain. And who does not remember when the article on the Legislature was on passage, that change after change was made in the seething and boiling of this Convention, and who forgets the frantic cry of the chairman of that committee, (Mr. MacVeagh,) "vote on my report," and I believe—the delegate from Dauphin will correct me if I am mistaken—his report has not been voted on to this day. And yet the delegate from Dauphin did not pretend to be upon trial, and no man rushed to his defence, and no one put it on the ground that we should go back to his article and take a vote on it because his feelings were wounded; and I presume he is quite as sensitive as other men.

Mr. President, I cannot see the necessity for any excitement on this subject. It is a plain, practical question that we are to deal with. Shall we in the discharge of our duty, sitting down here deliberately, without crimination or recrimination, without reference to what may have occurred or what may have been said outside of this building, in view of the oath we have taken, with a knowledge of our duty and our obligations to the people, perform our work and perform it well; and when it is performed and we go to the people of Pennsylvania with an article on railroads, no man can tell whether we have given it so much wisdom that in the future railroad corporations will be restrained, and the people will have the use of their facilities free and unencumbered.

Now, Mr. President: I do allege that if it be true, as stated by delegates from the west, that one man is favored in business and, alongside of him, a citizen operating in the same business, giving it the same attention, investing the same amount of capital and energy, is distressed by the action of railroad companies, and his business destroyed, because of the partiality of the railroads for one over the other, it is a public wrong; it is a tyranny; and it is the high and the sacred duty of this Convention to relieve the citizens from such oppression. Of that there can be no doubt. If there is, as has been said by

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the delegate from Allegheny, (Mr. Howard, a discrimination made in favor of favorites, and there is a license in the law as it now exists for railroads to make discrimination for their favorites, then it is the duty of this Convention to break it up. I do not know how you can reach a railroad company to prevent discrimination entirely. I do know that you can prevent a railroad company from carrying a long distance for a less price than a shorter distance, and it seems to me that that would, in a large measure, remedy the evil.

Mr. President, there are two axe factories in the interior of the State, one located in Mifflin county and the other in Centre county. The great distributing point for axes in the western country is Louisville, Kentucky. The railroad line from New York to Mifflin is owned or rented and controlled by the Pennsylvania railroad company. When I was at home in the vacation the evidence was laid before me that a hundred weight of axes carried from Mifflin to Centre county, one-third of the distance, to Louisville, Kentucky, will cost ninety cents, while the freight on a hundred weight of axes from New York to Louisville will cost forty-five cents. I say that is a wrong, and a wrong which this Convention should redress if it can reach it. That is the question. I cannot well understand how the Legislature could redress such a wrong. I do not know whether or not we can put a remedy in the Constitution. I state to you a fact, and the delegate from Allegheny has told you that in carrying coal from the summit of the mountain it is common to give one company more facilities than another, to make one prosperous and ruin the other. That is a fact which this Convention can redress and it is a wrong that ought to be redressed. I think the special committee made a great mistake, a grave and serious mistake, in taking from the report of the committee the prohibition against free passes.

I do not accept either of these reports; but inasmuch as this Convention failed to amend the report of the committee of fifteen, although the attempt was made at various times during its passage, and a vote to reconsider was carried and a committee of seven was specially appointed, and that committee makes a report embodying almost all if not all the principles of its original report of the committee of fifteen, as it is shorter, more concise, in plainer language, I will vote for this

report of the committee of seven, because I think that it forms a better basis for improvement and amendment than the report of the original committee of fifteen. I would not vote for that report as it is the final action of this Convention, because it is not strong enough. I have declared in debate on the article reported by the committee of fifteen that some of its features are so seriously objectionable that I cannot vote for it. The report of the committee of fifteen we did not amend. The report of the committee of seven we may amend. With the expectation that the Convention will place upon the report of the committee of seven amendments enough to make the article efficient in its action on the railroads of the State for the relief of the people, I will give it my support; and I rose only to give my reasons for that conclusion.

Mr. BLACK. Mr. President: I only desire in a very few words to state the reasons why I shall vote for the report of the select committee. If I thought that in doing so I was guilty of the slightest discourtesy towards the Committee on Railroads, and especially the chairman of that committee, for whom I have so high a regard, I would not do so. But the Convention, by a very deliberate and decided vote, withdrew the article on railroads from that committee, and referred it to a select committee. The select committee has made a report, and that report now becomes the text before this body; and in voting for that, I think I show no disrespect or discourtesy to the Railroad Committee or its able and excellent chairman.

Now, sir, if there be one fact patent and developed through the whole of this debate, commencing at an earlier stage of the session, it is that very grave abuses exist in the railroad management of Pennsylvania. The charges have not been denied on this floor; they are virtually conceded, and no serious attempt is made to deny them. The only excuse or palliation made by any one has been by the gentleman from Philadelphia, (Mr. Cuyler,) who alleged that competition would cure these abuses. It is the weakest remark he ever made in his life, because to talk about competition curing these evils is idle as the wind itself. Competition to cure evils alleged, indeed conceded, against great corporations like these is mere idle assertion. It cannot be done. Where can the competition come from to effect such great reformation? The

vast aggregation of wealth now centered in one or two great corporations of the State very effectually preclude any remedy by competition. The evils charged on the railroad management of Pennsylvania, if they are true, and I repeat that they are virtually conceded on this floor, should be remedied without doubt if we can do so, without crippling the great corporations, which have admittedly done so much to develop the resources of our magnificent Commonwealth; as remarked by the able delegate at large, Judge Woodward, that it was for this purpose they were created. So long as they confine themselves to the limits of the State, there was but little cause of complaint. But lured by a great prize, the vast trade and travel of the great west, they entered into that rivalry with the railways of other States which soon resulted in discrimination against the trade and travel of the people of our own State. This obvious injustice, with others, it is our duty to remove if it can be done by constitutional means.

First of all, however, the people claim, and I think they claim rightly, too, that we should have a just general railroad law, free from any restrictions or improper conditions by the Legislature. Again it is charged upon the railroad management of Pennsylvania that a most odious system of discrimination exists throughout the whole of the State. It is charged again, and it is not denied, that they permit an invidious system of favoritism among themselves or their officers; that they allow transportation companies to be formed of their own officers and employees, and operated by them, and for their own exclusive benefit. This great preference and advantage may be a matter for the stockholders, it is true; but then they are of the people, and all the people have an interest in the question at least. It is also charged, and was admitted by a former delegate on this floor, that they had departed from the original design of their creation and acquired lands and pursued business not contemplated by their charter. That admission, however, was explained or defended by the assertion that these lands were acquired under the charters of other companies, and the franchises of which were leased or purchased by the offending corporation. The admission proves too much that they do indirectly what the law or their charter would not allow them to do directly. It may be that this Consti-

tution cannot reach this evasion of the law, and they may be protected by the spirit if not the letter of the law. We can, however, guard against it in the future, and if we can, it is our duty to do so. It is further charged upon the railroad management of the State, that a great abuse exists in the preferences afforded in furnishing cars and the necessary means of transportation. In some important sections of the State, it is alleged that the grossest favoritism prevails, whereby individuals and companies are most seriously affected in their business operations. That favored parties are accommodated with transportation to market, to the delay if not exclusion of other and equally meritorious persons and companies. This abuse if it exists, and its existence is not seriously denied, is so palpably unjust and flagrant, that it demands a remedy at our hands, if remedy be at all practicable. And the great question with us is to see what means can be devised by the wisdom of this Convention, to attain this important and desirable purpose. We all doubtless aim at the same thing, and by a just and mutual spirit of concession, I believe we can arrive at some fair and practicable conclusion.

Now, I assume that this Convention means to do something right about it. The attempt so far has been in that direction. The two reports—the report of the standing Committee on Railroads and Canals, and the report of the special committee—do not differ very materially. As was remarked by the distinguished delegate from Centre, (Mr. Curtin,) I shall not vote for either of them in their present form. They are both defective, in my judgment, in several particulars, but out of both a fair article may be readily framed. The report of the original committee is very defective. It wants that conciseness, that brevity and that point which every article in the Constitution should have. I think, however, that if we are to consider that report, this defect can be corrected; and I do not think the defects I speak of are justly chargeable to the Committee on Railroads and Canals or to its chairman, because most of the sections to which my objections would specially apply were not reported by the committee, but were inserted in the article in open Convention.

The section which proposes to give a free railroad law to the people I think is

very defective, because in my opinion it makes no *free* railroad law at all, but it is expressly subject to the restrictions which the Legislature may impose at any time. That is all wrong, and I cannot vote for such provision. Then in the third section reported by the special committee I do not, I confess, like the words "*undue and unreasonable.*" It leaves the whole thing open, as it seems to me, to future construction or to some act of the Legislature. I would not vote I believe, as at present advised, for those words in the section, although I am not insensible to the argument that there must be some latitude allowed. Then in the seventh section both committees have reported the same thing.

"No president, director, officer, agent or employee of any railroad or canal company shall be interested directly or indirectly, *otherwise than as a stockholder,*' in such railroad or canal company," &c. Now, to say the least of this, it seems to me to be senseless and useless. If it mean anything at all it means that a president or officer who happens to be a stockholder, and I presume none other will be elected officers, and therefore he is almost sure to be—may operate as a transporter. If we intend to prohibit this thing entirely why not just say so. Why not say that no president or other officer or employee shall be so interested, so as to leave no doubt upon the matter. The only construction that can be now placed upon this section is, that if a president, director or officer happen to be a stockholder, which of course he will be, that then he can operate in the manner that is objected to. I shall not vote for that section, because I think it means nothing, unless it means what I say.

Then I shall not vote for this report, because I am in favor of the abolition of free passes, which the report of the committee omits. I think it has become a grave abuse, and ought to be abolished by this Convention. I will cheerfully vote for such abolition.

Coming back, then, Mr. President, to where I started, I say I shall vote for the report of the special committee, because it is the proper text before this Convention, and ought to be adopted as a basis to build upon; and I have no doubt that by adopting this report we may be able to go to work and amend it in a manner so as to be satisfactory to all. I desire to see it reformed, because there is a great deal of good both in the report and in the origi-

nal article. I desire it to be taken up in connection with the report submitted by the original Committee on Railroads and Canals, so that between the two we can form a proper and judicious article, one that will commend itself to the approbation of the people and indeed to the railroads themselves. These are the reasons why I shall vote for the report of the select committee.

Mr. CAREY. Mr. President: But for the importance of this subject, I would not intrude at all upon the Convention, and as it is I shall be very brief. When the question was up a week since I asserted that the passage of that fourth section would be in effect a proclamation to the world that in all the future there was to be no thoroughfare through the State. That was denied by the delegate from Allegheny (Mr. T. H. B. Patterson.) What he said on that occasion was this:

"Further than that, it is alleged that this section precludes through freight. If I can get the ear of delegates for one moment, I will show them that there is nothing in this section to prevent through freight just as it is now. The State of Pennsylvania has no jurisdiction over its corporations beyond the State lines. Any provision that we put in this Constitution only applies within the State lines. We cannot reach into Ohio or New York or the surrounding States. The effect of this section is simply to say that if through freight passing between the State lines pays seventy-two cents a ton, they shall not charge more than seventy-two cents a ton for freight within the State. That is all it says as to through freight."

Well, now, that may be more simply, and, as I think more clearly stated. It is that no merchandise, no freight, no passengers, shall pass through this State without paying the same toll or same freight that is provided for merchandise and passengers within this State. That is certainly in accordance with what the delegate had previously said to myself. He said:

"You may bring property to the State line free of charge if you like; we have nothing to do with that. Bring it at what price you please, but when it passes through the State it must be subject to State law. It must pay the rate of freight provided for by merchandise within the State."

Now, in all discussion since that time, there has been no question raised as to his interpretation of that section, and we

must, I think, assume that that is what is meant by it. Let us look for a moment and see its effect. The difference between retail and wholesale freight and retail and wholesale prices is quite as well understood in all railroad matters as it is in any other branch of trade. The Philadelphia and Reading railroad company sells five miles of transportation for fifty cents. It will sell ninety miles for two dollars. The new toll-sheet provided for by the reform commissioners of Illinois puts thirty cents down in one of the columns for the first mile, and goes down gradually until, when it passes two hundred miles, it comes down to half a cent. There is therefore discrimination throughout, and hence it is that I object to this limitation of thirty or fifty miles. There can be no such limitations. There is discrimination everywhere. In all your State arrangements with regard to railroads there is discrimination everywhere, from the first hour to the last.

Well, if you have retail and wholesale within the State, outside of the State you have the great wholesale trade, the trade of thousands of miles from the Pacific to the Atlantic, and almost from the Rio Grande to the Bay of Fundy. If there is to be discrimination between the hundreds of miles within the State, there must also be discrimination between the thousands of miles without the State. The man who buys one thousand or two thousand or three thousand miles of transportation is entitled to buy at a more moderate price than the man who buys fifty miles or one hundred miles, or three hundred miles, within the State. It is a great law of trade, and you may do what you like in this Convention, you cannot set that law aside. God Almighty made it, and man cannot overthrow it, and yet that is what your committee has been trying to do.

They insist that railroads may discriminate as much as they like outside of the State, but that the moment they come to our line, then there shall be no discrimination. We then in effect say to the people of the South who are sending every year more and more of their cotton to the North by their railroads, (and it is a grand thing that the railroads are thus superseding the passage by sea,) "You may send your thousands and your tens of thousands and your hundreds of thousands of bales of cotton all the way to Lowell; but remember that the moment you touch the sacred soil of Pennsylvania

you are subject to State laws and State tolls." We say to the people of the West, with their millions and millions of pounds of beef and pork and food of all kinds, "Send them all over; we will pass them all through; but remember the law. The moment you touch the State line you become subject to our law. We allow no discrimination. You may have thousands and thousands of miles to travel under any discrimination you choose, but for the three hundred miles through this State we allow no such law."

Now, sir, what will be the consequence? Massachusetts wants all this traffic. She wants to become a great thoroughfare. New York has three trunk lines from the West to the seaboard and wants more. Maryland is doing her best to obtain the trade of the West, and Virginia is doing the same. Will it pass through Pennsylvania on the terms we are here asked to provide? Assuredly not. It will go around the State, and the shippers of the West and South will be received by the other Commonwealths with open arms, while we are shutting them out. That is what we are now asked to do in the future.

The PRESIDENT. We will pass them through on the Lake Shore road without charge, through fifty miles of this State.

Mr. CAREY. Of course you will, but how is it to be in the future? Within a week I have read that as soon as the Welland canal shall be completed, wheat will be carried from Chicago and Duluth to the sea for four dollars a ton. Now, sir, if our farmers are to be troubled because wheat comes through here at ten dollars a ton, I guess they will be more troubled when they find that no wheat comes because it can go elsewhere at four dollars a ton. Within a week I have also read that the United States Senate Committee on Transportation Routes to the Seaboard is about to report in favor of three routes of water communication, one of them north of us, one south of us and one in the southwest; and that a united north and south and west will be brought to bear so that the three shall be carried together. The question is, shall we, even if we do not adopt this section, be able to continue the State in its present position? I doubt it. One thing I think is certain, that instead of passing laws to compel people to go out of the State it would be far better that we should pass laws to endeavor to induce them to come through the State.

So much for the merchandise that comes into the State. Now let us look at what is provided for as regards the merchandise to go out of the State. There are to be no allowances of any sort or kind. The people who want to send anthracite into the great trade of the Union outside of the State are accustomed to make certain allowances to enable it to get outside of the State. They have long lines to travel and they have to make discriminations; the same sort of discrimination has to be made between Schuylkill county and Boston that is made between New York and California. But we say no property shall go outside the State unless it pays retail rates within the State; that is the meaning of the section.

Sir, if we shut the door so that our property cannot get out of the State, and nobody else's property can get in the State, what will be our position a few years hence? When I came home from the West a few weeks since, I told my friends that I thought these people were very crazy; that they were on the road to ruin. They have gone pretty far towards it since. A hundred millions of dollars will not pay the West to-day for the damage that has been done in the last twelve months by foolish men who have been fighting railroads. But they have not gone as far as we propose to do. They have not put those restrictions in their organic law. They are mere laws; they can be repealed to-morrow. How will it be with ourselves? Why, after we have suffered for a year or two we shall call upon the Legislature, and the Legislature will take two years to determine whether they will make a change; and then, at the end of three or four years more, perhaps we can get some change.

I believe the question to be settled this day is the most important that has been discussed in this State since the revolution. It is a question of the position this State is to occupy among the States. Let her adopt this, and what will be her position, what will be her credit? When Ohio wants to send her produce through this State, she will find that she is cut off and obliged to go through New York. Suppose she adopts the same course that we do, and suppose all the other States adopt exactly what we propose now, what becomes of the commerce of the Union? Recollect we ought to do no one thing here in reference to railroads that we should not admit to be right if done in every other State. What we do by Ohio,

by Indiana, and Massachusetts is exactly that which we should be content to have Massachusetts, Ohio and Indiana do by us.

The PRESIDENT. The gentleman's time is up.

Mr. CALVIN. I move that it be extended. ["Go on."]

Mr. CARTER. I shall feel inclined to object, for one. I think we should all have an equal chance.

The PRESIDENT. The Chair will hold to the rule. It would create dissatisfaction in the House to do otherwise.

Mr. ALRICKS. I ask a vote on the question of extending the time of the delegate.

Mr. STANTON. It has been already done this morning.

Mr. CAREY. I have but a few words more. I say we should do nothing here that we should not be content to have done in every other State of the Union.

Now, suppose we do not do this and suppose Kentucky and Ohio and the other States adopt this thing and we find that all our coal, and our iron, and cloth, go where they may, are to be embarrassed by restrictions like these, shall we not complain, and is it well that we should do that which we would not desire to have other people do? Is there a man in this body that would be content to see such things done elsewhere as we are proposing to do here?

In this matter I want it clearly understood that I have no shadow of interest; I do not own a share of stock in any of these companies. I have never received an act of kindness that I know of from any one of them. So much the reverse is it that I have good reason for feeling somewhat annoyed at being obliged on this occasion to say any single word by which the Pennsylvania railroad company could be supposed to profit; and that I do so is abundant evidence of how sincerely I believe every single word I have said.

The difference, in regard to this one question, between these two papers is a very essential one. In the one we have a cast-iron law, which forbids that we should admit of any discrimination. In the other we provide that there shall be no undue discrimination. I think that is perfectly right. The other I think would be in the highest possible degree injurious.

Mr. WOODWARD. Mr. President: I never rise unless I have something to say.

Now, the something which I have to say at this moment is that I cannot vote upon the present question. This Convention has no right to subject me to the torture of voting when my vote cannot express the opinion I hold. What is it? A motion to substitute thirteen sections for thirteen other sections, both of which bills are as full of important provisions as it is possible to imagine, full of provisions that need to be taken apart, analysed, examined and passed upon by different majorities in this body; because majorities here will be found for one of the details and against others.

Now, that the proposition is to take it by the wholesale. We have heard something about wholesale prices as compared with retail, and this is an illustration of it; I suppose I cannot vote for such a motion as this is. I wish the gentleman who made it, if he is here, would allow me to appeal to his common sense and discretion to modify this motion and take up the report section by section. My friend from Dauphin (Mr. MacVeagh) hit this point yesterday early in the debate, but with the exception of the notice which the gentleman from Centre (Mr. Curtin) gave it this morning, I do not understand that it has received any attention at all; and yet it is the most vital suggestion that has been made upon the immediate question before us.

Now, sir, the Chair ruled, allow me to say I think very erroneously, that this report of the special committee of seven was the main question. I voted against the decision of the Chair, but I acquiesce in it now that it is sustained and the majority of the House hold that this is the main question. Then take up this main question section by section, and let gentlemen move to amend it section by section of this other original report, which I did consider the main question before the Chair ruled the other way. Then we will have presented to us a series of intelligible propositions which we can discuss in detail and decide according to our best discretion; but presented in the mass, as it is now, my vote will mean nothing. There are some things in the original report which I will give up no sooner than the chairman of the committee, if I can help it. There are many things in this amended report that I very much prefer to the original report. How is a man situated like me to vote on such a question as this?

I insist upon it that the question upon which I am required to vote shall be made intelligible, so that I can give an intelligent vote. I believe the gentleman who made this absurd motion is not in the House. If he is I would beg him to modify his motion so as to take up this report of the special committee section by section, and let gentlemen move to amend it, section by section, by the other report.

Mr. COCHRAN. If the gentleman from Philadelphia will permit me, I will merely suggest that the question pending is nothing more than this: Which shall be the text to be amended? If this motion to substitute prevails, then that becomes the text to be amended, under the decision which was announced yesterday, and it is only a question as to which you shall take up.

Mr. WOODWARD. The question has been decided, I think erroneously. I voted with the gentleman from York on that question.

Mr. COCHRAN. No, that question has not been decided, because if this motion to take up the original report prevails then that report will be open to amendment, and become the text of the article just as the other would be.

Mr. WOODWARD. That would be an over-ruling of the Chair.

Mr. COCHRAN. No, sir, that is what the Chair indicated to be his decision yesterday.

Mr. WOODWARD. I understood the Chair to decide that the question now before us was the report of the special committee.

The PRESIDENT. And the House sustained that decision.

Mr. WOODWARD. Yes, sir, and the House sustained that decision. The gentleman from York and myself voted against it.

Mr. COCHRAN. What I wished to say was this: The question is to substitute the original article and make it the text, the original article as it stood on third reading when it was committed; or make it the text and take it up and amend it *seriatim* in any way gentlemen propose.

Mr. WOODWARD. I am quite agreed to that so far as I am concerned, but the trouble is that the Chair does not concur in that.

Mr. LAWRENCE. The Chair decided that it was amendable.

Mr. WOODWARD. Now I think I will bring this trouble to a focus, by making a motion. I move that this motion now.

pending be postponed indefinitely; and I make that motion with a view of then moving that the Convention take up the first section of the report of the special committee, when I shall move, if nobody else does, to adopt it instead of the first section of the report of the committee of the whole as we have it.

Mr. STANTON. The gentleman will understand that this will postpone the whole matter before the Convention.

Mr. WOODWARD. No, sir, my motion is to postpone the motion.

Mr. STANTON. But that motion takes the whole matter.

Mr. WOODWARD. My motion is to postpone the motion which has been made by Mr. Temple.

Mr. PURMAN. That would carry the whole subject over.

Mr. WOODWARD. It would only carry it to the table and we can take it up. Is my motion in order?

The PRESIDENT. It is not in order.

Mr. MACVEAGH. Then let us by unanimous consent, without the previous question, take a vote on the pending motion.

Mr. H. G. SMITH. I withdraw the call.

The PRESIDENT. The delegate from Philadelphia is on the floor, and whilst he is on the floor no motion can be received.

Mr. WOODWARD. Mr. President: If my motion is not in order, and we must pass upon this question as it is presented, I have already said that I know not how to vote intelligently. I think the special committee have improved the first section, and I desire to vote for that in preference to the first section as it is in the report of the Railroad Committee. Then in several other respects, especially as to the third section, I find nothing in the report of the special committee supplying that. I am in favor of the third section. When we come to the fourth section, which is the subject of most discussion here, I am unfortunate enough to differ from my learned friend from Philadelphia (Mr. Carey) and from several gentlemen who have talked about the laws of trade as applicable to this question.

Mr. ARMSTRONG. If the gentleman will allow me to interrupt him, as respects the third section, he will find that the committee have enlarged that so as to embrace other than railroad and canal corporations, and recommended that it be inserted in the general corporation article.

Mr. WOODWARD. Mr. President: I wish to say that according to my judgment this general principle that has been alluded to has no application to the subject. Pennsylvania, by no law, human or divine, was ever meant to carry the products of other States to markets for their benefit. That was not the purpose for which the State of Pennsylvania was organized into a political community. She is under no obligation to carry the products of the west to the eastern markets for nothing, and then tax her own citizens two or three prices to compensate her for doing that service. There is no law of trade which applied to the State, an artificial political corporation, can work out any such absurd results as that.

Why, sir, when the State of Pennsylvania was asked to incorporate the Central railroad company, the people were alarmed at the prospect of having their canals destroyed, which they had built at great expense, not for the benefit of the people of Ohio and Illinois and Iowa and all the rest of the west, but for their own benefit; and this "honest" Legislature, which the gentleman from Delaware (Mr. Broomall) says is as honest as he is, put into the charter of the Pennsylvania railroad company that they should pay three mills a ton tax to the State for the privilege of rivaling the State canals. All parties were then looking to local tonnage. The canals carried nothing but local tonnage, and the railroads expected to carry nothing but local tonnage; but the people said to them: "If you take away the local tonnage from our canals you ought to put back into the Treasury some equivalent for it," and then came the three mill tax. Now, what did this "honest" Legislature, of which the gentleman from Delaware speaks so confidently, do with that three mill tax a few years afterwards? Blotted it out, repealed it altogether, without any equivalent, and gave these very canals to the railroad companies besides. This is what the Legislatures do when beset by corporations.

Gentlemen who talk about not putting legislation into the Constitution and referring parties to the Legislature ought to remember these familiar facts in our own history. That three mill tax was abolished and the people of Pennsylvania were deprived of it, although they held it by a bargain, by a distinct contract with the Pennsylvania railroad company, for the purpose of enabling that company to rival the New York roads,

the New York canals and the Baltimore and Ohio road in building for the western trade to the eastern markets. That was the argument. We must give up our works, we must give up our canals, we must give up all our contract obligations, and we must impose upon ourselves two or three prices for the tonnage we transport among ourselves in order that you may maintain a successful rivalry with these neighboring corporations; and then we are told by learned economists in this Convention that this is according to the great law of trade. I deny it. I deny that there is any law of trade or common sense that requires this Commonwealth of ours to tax herself and her people in this style for the purpose of enabling any corporation to maintain a rivalry with the corporations of other States. If other States want to transport their products across our territory, let them pay something like a fair equivalent for doing it. At any rate let us not transport their products for virtually nothing and then fall down upon our own citizens and charge them three or four prices in order to compensate the loss which we sustain for the benefit of these rival railroad companies.

Mr. President, I am speaking in no prejudice against railroads. What gentlemen have said in reference to the growth of Pennsylvania under the influence of railroads is true, and more than what has been said is true. I have before me a paper prepared for a different purpose, a statement of the votes in Pennsylvania in the year 1838 for Governor, when such was the excitement of the contest that I venture to affirm that as few votes were withheld as in any subsequent election; and what was the aggregate vote for Porter and Ritner? 250,146 was the entire voting capacity of Pennsylvania in 1838, in an exciting contest for the office of Governor. Now, sir, what was it last year? 890,000,—549,854 more than in 1838, more than double. This present Pennsylvania that we are now deliberating upon and for is another Pennsylvania. It has more people and more voters by two hundred or three hundred per cent. than it had in 1838; and what has made this progress? Railroads undoubtedly. Undoubtedly railroads have been the great (not the exclusive, but the great) motive power in this tremendous development and social prosperity. I give them full credit for what they have done.

I have said before in this Convention, as I say now, that I will do nothing to

cripple or destroy this powerful agency in the development and growth of my native State; but, sir, what has made these railroads prosperous has been the local trade. A gentleman connected with the New York and Erie railroad told me that in one of the various vicissitudes to which that road has been subjected, on going along its line he found more tonnage waiting for cars to transport it to market than the road was capable of carrying; and yet they were digging out a port at Dunkirk, and arranging for water connections with all the western world, while they were neglecting the tonnage that lay alongside of their road, and when they came to their senses sufficiently to carry that tonnage then the New York and Erie railroad began to get out of their difficulties. The Pennsylvania railroad company owes its prosperity to its local tonnage and not to its foreign trade, and it will owe its prosperity to-morrow and for all time to its local tonnage.

Now, sir, it is this local tonnage, it is the tonnage and the business of the people of Pennsylvania, that has made the railroads, and that has enabled the railroads to build up the State. The action has been a reciprocal action, a healthful action, and so it will continue to be if we can get it and keep it upon proper principles.

I have no objections to the railroad carrying the grain of Illinois if it can do it, but I say, let that be a secondary consideration. Carry the coal and iron and lumber and oil of Pennsylvania first, and let the people of Illinois send their grain by the Welland canal or the New York canal, or any other canal, or else let them pay such tolls for traveling on our soil as we have to pay ourselves. It seems to me that that is common sense, and I submit to my learned friend (Mr. Carey) that there is no law in Heaven or earth that is violated by that common sense.

Now, Mr. President, when we come to consider these sections in detail, this is the way that my vote will be governed; but I cannot vote intelligently upon this mass of matter. It is only when we come to consider the sections in detail that we can apply these principles.

One other thing before I sit down. This special committee have been highly eulogized, but none too highly, and yet they did a very extraordinary thing. They struck out of this report a little section, the tenth, abolishing one of the most mischievous practices in Pennsyl-

vania, the granting of free passes; and they brought in here an argument in support of that omission that was really extraordinary. My friend on my left (Mr. Armstrong) stated it better than anybody else. He said if that section remained, the distinguished statesmen and politicians who might come here from abroad would not be able to receive the courtesy of these railroads, in their travels, by a free pass, and if you made particular exceptions, so as to allow free passes to be given such distinguished strangers, then you would do injustice to our distinguished men, our Governors, our judges, and our legislators, who had just as good a right to travel free on these roads as the distinguished Governors and officials of other States and other countries. Therefore, since they could not adapt it to either of these classes, either exotic or domestic, they struck it out entirely and we are not to have any provision on the subject at all!

Mr. President, this little thing has been a source of great corruption. Our intelligent friend in front of me (Mr. Knight) tells us that he knows of one railroad company whose free passes in one year amounted to half a million of dollars, and the gentleman from Columbia (Mr. Buckalew) estimated that the free passes on all the railroads in Pennsylvania would aggregate two millions of dollars. Sir, whose millions are those? They are the money of the stockholders. Who are the stockholders? The people who consented that this system of railroads should take the place of the system of canals which they built many years ago. It is just taking from the people without their consent and without their knowledge, (w) millions of money and giving it to the distinguished politicians from abroad and at home.

Does anybody find any authority for that in the charters or the theory of these railroad companies? These railroad companies are the creatures of the State. They are incorporated for the benefit of the people of Pennsylvania. Where do you find any authority for that use of their power? If it were simply an unauthorized use of their powers, it would be a small matter; but, sir, it is mischievous. The railroad companies hold the Legislature by this means, as well as by other means, in the hollow of their hands. They do with them just as seemeth good in their own eyes; and I undertake to say that there has been no Legislature at

Harrisburg for the last ten years. Legislation under our Constitution can only be made by the representatives of the people.

The legislation at Harrisburg is made by anybody but the representatives of the people. It is made by railroad corporations and their paid agents and lobbyists. It is not made by the representatives of the people. One of the very first things that a new member learns when he goes there is, "you must keep your hands off my projects, or I will spoil yours." Sir, is that legislation? I deny that we have had any legislation in Pennsylvania for years, and if we do not amend this Constitution we shall cease to have any. The Legislature is bought up essentially by the power and influence of these corporations, and especially by this system of free passes.

The other day when we had the subject up, the judiciary was alluded to, and I ventured to say something on that subject. Now, sir, I repeat that the giving of passes over the railroads to judges is of most pernicious example. Let me not be misunderstood. It is not that I mean to intimate that any judge in Pennsylvania was ever corrupted by such means or any other, it is not that I mean to intimate that the decision of any cause was ever influenced a hair's breadth by the possession of a pass; but, sir, it is calculated to bring the judge, and through him the whole judicial institutions of the country in disrepute with the people. That is the objection to it. When a judge has come to be a suspected man, the difference in his own conscience between him and his God as to whether he is guilty or innocent, is very great; but as far as the public is concerned, it is of small consequence whether he is guilty or innocent. If he cannot live like Cæsar's wife, not only unsuspected but above suspicion, he ought to resign his commission. His influence for good is at an end when people can say of him, "Oh, that judge has a pocket-full of railroad passes, and therefore a private citizen has no chance in a suit before him against a railroad company." When that can be said of any judge, it is an evil in the land, not because the judge is necessarily guilty, not because he decides causes wrong, but because you bring the judiciary, the last hope of the Republic, into suspicion and contempt with the people; you teach the people to regard with contempt and dread institutions that they ought to be taught

to regard with reverence and respect. I would pay judges a liberal salary and give them the means for traveling to and fro, but I would not subject them to this popular odium by allowing them to travel upon the free passes of railroad companies. I would not allow any legislator, Governor, or other public officer, to do so for a somewhat similar reason; but if you are to corrupt them, if you are to subject them to these suspicions and reproaches, I implore you to save the judiciary from these suspicions.

Therefore I think the select committee who struck out that section from the report that was referred to them, did unwisely, and the reasons that are given for striking it out here fail to convince me that it ought to be struck out. When we come to the proper place, if nobody else moves to restore that section, I shall move it myself; or if somebody does move to restore it, I shall vote for it. But I see my friend from the city, Mr. Temple,) who made this motion, is here; he was not here when I rose. He is the delegate who moved to substitute thirteen sections of closely printed matter for thirteen other sections of closely printed matter, and I ask him to modify his motion so as to make it a motion to substitute the first section of the old report for the first section of the new one. That is in order, and if it be done it will enable us to take up the subject regularly.

Mr. TEMPLE. If the gentleman desires it I will modify my motion to that extent.

Mr. WOODWARD. I am glad of it.

Mr. TEMPLE. For the purpose of having a square vote on these two articles, I made a motion to substitute the old report for the new. If it is the desire of the Convention to vote on these articles separately I will agree to it.

MANY DELEGATES. No! No!

Mr. TEMPLE. I simply desire myself to vote for the article first reported as amended in committee of the whole and on second and third readings.

Mr. S. A. PURVIANCE. Unwilling as I am to consume the time of this body, I nevertheless claim the right and feel it a duty to say a few words, inasmuch as this Committee on Revision, as it has been called here, has stricken out a most valuable section of the railroad article which I had the honor to offer, and which passed through the Railroad Committee of this Convention, through the committee of the whole, and passed through first, second

and third reading, and that too, I may say, by almost unanimous votes. I am not going to complain of the manner in which that special committee was constructed, but I would say that a more sudden change possibly never took place in any deliberative body, and therefore we had the right to justly say that we were taken by surprise.

Why was that feeling? Why was that marshaling of forces? Why that sudden motion on Friday evening when this body was near the time of adjournment? Why was this whole subject which had been matured by the committee of fifteen, and which was in the Convention for months, given over to a committee that made a report in a day or two, and now come here and ask that their report be chosen as the best of the two? I am here to criticize that report. I am here to say that I believe that report is made, and studiously made, in the interest of those opposed to railroad restriction, and therefore I say that this Convention is called upon to settle the great question of whether the people or the railroads shall control. I will admit that it is a mighty battle, it is a mighty battle to be fought within the forms of organic legislation; and it may be for aught I know or for aught any of us know, the last time that the people will be allowed the privilege of freeing themselves from the thralldom of hydra-headed corporations. The people are seeking for free railroads. They are against monopolies; they are against discriminations; they are against favoritism, and yet they have to meet and battle with monopolies, with corrupt legislation, and with corporate control.

What is the first section of this strange report? It provides that any corporation or association can construct and operate a railroad subject to the regulations prescribed by the Legislature. They carry that provision into the first section and make it a part of the organic law of the land which is to be observed. I submit to every member of this body, when the Legislature prescribes certain rules, that, for instance, no railroad shall be chartered within a certain distance of another, or unless every dollar of the capital stock subscribed thereto shall be paid in, and the hundred other incumbrances that could be devised, whether under the wording of this section such provisions would not become part of the organic law. It is made so by the stipulation in the first section of this report. What was

it put there for? In the latter part of the article they say:

"The Legislature shall, by general law of uniform operation, provide reasonable regulations to give full effect to this article."

If this was a Committee on Revision, if it was a committee to condense, why are they guilty of tautology in saying this same thing twice, first in the first section, and then again in the last, unless it was studiously put there for the purpose of enabling the Legislature to trample the rights of the people when they claim relief from railroad oppression? I say that is the purpose for which they put it there. I charge that upon those who put it there, that it was put there for that purpose, because it was put there by gentlemen who understand the force of language.

What is the next section? Why, sir, we had passed a section, number nine, of the railroad article, by which we prohibited discriminations in favor of transportation companies. By that section we prevented a railroad company from making contracts with transportation companies to carry their goods at less rates than they carry the goods of Judge Woodward and myself, or any other member of this body. That was agreed to over and over again; and now, what did this special committee do? They have reported this simple section:

"SECTION 4. No discrimination between transportation companies or parties engaged in the business of transportation shall be made, either by abatement, drawback or otherwise; and no railroad or canal company, nor any lessee or manager thereof, shall make any preference in furnishing cars or motive power."

What does that mean? Simply to say that one transportation company shall not cheat another, one transportation company shall be put upon an equal platform with another. That is all it is. But, sir, was this Convention called together for the purpose of protecting transportation companies, for I say that this section in its present shape is a section that goes no further than to protect transportation companies? And when I asked the honorable delegate from Lycoming (Mr. Armstrong) to agree to insert the words, "no discrimination in favor of transportation companies," instead of the words, "between transportation companies," he turned upon his heel and went to his seat.

Mr. ARMSTRONG. Never! I never was guilty of a discourtesy like that to any gentleman on this floor.

Mr. S. A. PURVIANCE. You did it.

Mr. ARMSTRONG. Never. Nor will I allow any gentleman to stand here and impugn my motives. I impugn no man's, and no man shall impugn mine.

Mr. S. A. PURVIANCE. What I meant to say was, that when I addressed the gentleman and he turned from me and took his seat—

Mr. ARMSTRONG. I do say that if the gentleman means that I turned with any discourtesy from him, it is false in whole and in part.

Mr. HARRY WHITE. I call the gentleman to order. These personal reflections cannot be permitted.

The PRESIDENT. The Chair will retain debate within the limits of courtesy.

Mr. S. A. PURVIANCE. I say the beneficent section of the original article was stricken down and that which is substituted for it is a delusion and a cheat to be palmed upon the people. What is it? That there shall be no discrimination between transporters. What does that amount to? One transportation company goes to a railroad company and gets an agreement from them to carry its freight for one cent a ton per mile; another transportation company have the equal right to go to the same railroad company and claim just that and nothing more. That is what the section means. How does that answer the people? Does that save the rights of the people? Does that save the rights of the stockholders? Section nine of the original report, which the select committee struck down, was framed in the especial interest of giving the benefit of low freights to the people, at least of giving the entire dividends to the stockholders of each and every company. It was perfectly fair, and I now ask that this Convention re-instate that important section, or, otherwise, it will be said that we have turned a deaf ear to the demands of the people and of the stockholders of the railroad companies.

Mr. BUCKALEW. Before the gentleman passes from that point I should like to ask him why he drops out of the fourth section the words "or parties?" I understand that is to prohibit what he desires.

Mr. S. A. PURVIANCE. I did not drop the words "or parties." I consider that this is equally obnoxious to the charge that I have made against transportation companies, for I say that this new section

is a mere declaration that there shall be no discrimination between parties who are transporters. It is nothing more than saying that there shall be no discrimination between companies and parties engaged in transportation.

Now, sir, I come to the seventh section. There what do they provide?

"No President, director, officer, agent or employee of any railroad or canal company shall be interested, directly or indirectly, otherwise than as a stockholder in such railroad or canal company, in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or operated by such company."

What does that mean? I submit to the Convention, to every member of it, that it means nothing more than this, that as between transportation companies no discrimination shall take place. Clearly that is the meaning. They provide that no officer of a railroad company shall become a transporter. I ask the honorable gentleman from Lycoming, I ask the honorable gentleman from Columbia, I ask the honorable gentleman from Delaware, whether they might not become members of transportation companies?

Mr. ARMSTRONG. I will reply to the gentleman. The seventh section is *verbatim* in the report of the special committee as it stands in the article as it passed third reading, except only that the words "railroad or canal company" have been inserted in the new reported section a second time, in order to avoid the possibility of a doubt as to whether the company referred to was a transportation company or a railroad company.

Mr. S. A. PURVIANCE. That is all right, sir; no doubt about that; but in addition to that they have stricken out the clause of the report that prohibits the formation of rings within rings, by parties not officers of a company, but who are friends, relatives or other favorites.

Mr. ARMSTRONG. It stands precisely as it does in the other.

Mr. S. A. PURVIANCE. I say it amounts to nothing because at any time the gentleman from Columbia, the gentleman from Lycoming and the gentleman from Delaware could form a transportation company and make a contract with a railroad company by which they would get the carrying of their freights for one or two cents a ton per mile, and then charge the public three cents a ton per mile and pocket the profit. I say that that section

they have studiously stricken out, and that section was the only one which protected the rights of the people and the rights of the stockholders of the companies.

Again, in the eighth section:

"Railroad and canal companies shall not engage in any other business than that of common carriers, except in such manufactures and productions as are necessary to the equipment, maintenance and operation of their works, nor shall they hold lands, freehold or leasehold, except such as are necessary for the same purposes."

What "purposes?" Why for the purpose of equipment, for the purpose of maintenance, for the purpose of operation. Where in the section of the report that they ask shall be substituted for the original, is a prohibition against directly or indirectly or holding acquiring lands except such as shall be necessary for carrying on the business of these railroad companies? That is the limitation which is desired, and that is the limitation which a majority of this body have voted for, and which they desire. Instead of their saying "such lands as are necessary for carrying on their business as railroad companies," they say "such lands, freehold or leasehold, as are necessary for the same purposes." What purposes? Clearly, purposes of manufacture and production necessary for the equipment, for the maintenance, and for the operation of their works. That means everything. That means a surrender to the corporations of the right to carry on mining operations to any extent, and under that section the simple question for judicial determination would be (and I submit to the very judicial mind of my friend Judge Woodward if this be not so) whether it fell within the clause and whether it was at all necessary for the maintenance of the road. I would have agreed to the section if it had said only "equipment," for that would apply to rolling stock; but the "maintenance" and the "operation" of a road may mean more than that, and the special committee have included these by saying that a railroad company may acquire lands, freehold or leasehold, "for the same purpose." I say that I do not want any such uncertainty as that. That is a destruction of the article reported from the Committee on Railroads and Canals.

Again. What is their article further? In the first place they struck out of the

original article on railroads individual enterprises altogether. In the first section of the railroad article it was provided:

"Any individual, partnership or association, organized for the purpose, shall have the right to construct and operate a railroad."

They struck out the "individual." They shut down upon the mining operations of every individual who may engage in that business. In the county of Allegheny I have constituents that are millionaires, that are engaged separately and individually in the business of mining and carrying their products over roads. Are you going to shut them down? Are you going to say that they shall not go on unless they are able to associate themselves in some partnership when there is no occasion for it, and when they have capital enough to carry it on? Will you tell them that they shall not have the benefit of your Constitution unless they form an association?

This special committee have inserted in their third section:

"All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals."

That is a proposition that perhaps they need not have put there at all, although it is probably not very objectionable. But they have added: "and no undue or unreasonably discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State, or coming from or going to any other State."

What does "undue or unreasonable" mean? There is another subject calling for judicial interpretation. There is another subject that involves doubt. Suppose I am a shipper. I have three or four or five tons of shipment to make, and when the railroad company sees proper to charge me extraordinary rates, what is my remedy? They will tell me to go to law and bring my law-suit and recover from this railroad these excessive charges, and when I do so, what will be their answer? That the charge was not undue or unreasonable, and I will have to abide by the decision of the court on that subject, and the result will be that under any circumstances a man would rather lose a small claim than go into litigation.

I ask that this Convention, instead of stultifying itself, restore the section that

has been stricken out. Let me say in answer to the gentleman from Delaware, who talks about Slaymaker's bull, and who certainly went so far as to make a comparison of all the members of this Convention who are opposing his peculiar views, and class them in the category of Slaymaker's bull; let me ask that gentleman to reflect a little whether the time is not coming when he will find that he and others are about butting their brains against the people, and they will be no more able to sustain that process than was the bull when he butted his head against the locomotive.

Now, sir, I want to silence this clamor against railroads. I want to have a system that will meet the approbation of the public; for you know, sir, that the character of your State has more than once been disgraced by perhaps a well-founded clamor that a single corporation has controlled the entire Legislature; and that now the *ipse dixit* of a single man, it is said, has the power of enlightening the understanding and convincing the judgment of the representatives of the people, and induce them to pass such laws as will satisfy the cravings and demands of the insatiate monster which he represents.

Sir, is this state of things to last any longer? Is it to be permitted any longer, or are we, as representatives of the people in this Convention, prepared to place our State on the high-road to that destiny which I hope and pray awaits her, if we only preserve her freedom and independence from the control of corporate power? For one, sir, I have done my duty, I believe, and I leave the responsibility to others.

The PRESIDENT. The yeas and nays have been called for on the motion of the delegate from Philadelphia (Mr. Temple) to strike out the article as reported by the committee of seven, and substitute the article as it stood when it was referred to the special committee.

Mr. STANTON. If we go into committee of the whole then, we cannot amend that?

Mr. CHURCH. I understand, Mr. President, from your ruling yesterday was that if this substitute is put in it will be open to amendment. ["Certainly."]

Mr. STANTON. No, it will not.

The PRESIDENT. Further amendments can be moved.

The yeas and nays were taken, and resulted as follows:

YEAS.

Messrs. Achenbach, Alney, Alricks, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Beebe, Biddle, Brown, Calvin, Campbell, Carter, Church, Cochran, Corson, De France, Dodd, Ewing, Finney, Fulton, Funck, Gibson, Guthrie, Harvey, Hay, Hazzard, Hemphill, Horton, Howard, Landis, Lawrence, MacConnell, MacVeagh, M'Camant, M'Culloch, Mantor, Minor, Mott, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Porter, Purman, Purviance, John N., Purviance, Sam'l A., Reynolds, Rooke, Ross, Russell, Smith, H. G., Smith, Henry W., Temple, Van Reed, White, David N. White, Harry, Worrell and Wright—59.

NAYS.

Messrs. Addicks, Andrews, Armstrong, Bannan, Barclay, Barr, Bigler, Black, Bowman, Boyd, Brodhead, Broomall, Buckalew, Carey, Clark, Corbett, Cronmiller, Curry, Curtin, Dallas, Darlington, Davis, Dunning, Edwards, Elliott, Ellis, Fell, Green, Hanna, Heverin, Hunsicker, Kaine, Lamberton, Lear, Lilly, Littleton, M'Clean, M'Michael, Mann, Parsons, Patton, Pughe, Reed, Andrew, Runk, Simpson, Smith, Wm. H., Stanton, Turrell, Wetherill, J. M., White, J. W. F. and Walker, *President*—51.

So the motion was agreed to.

ABSENT.—Messrs. Bardsley, Bartholomew, Bullitt, Cassidy, Collins, Craig, Cuyler, Gilpin, Hall, Knight, Long, M'Murray, Metzger, Mitchell, Niles, Palmer, H. W., Read, John R., Sharpe, Stewart, Struthers, Wetherill, Jno. Price, Wherry, and Woodward—23.

The Convention accordingly resolved itself into committee of the whole, Mr. Green in the chair.

The CHAIRMAN. The committee of the whole are instructed to amend the article, by striking it all out and inserting a substitute. The amendment will be made.

The committee rose, and the President having resumed the chair, the Chairman of the committee of the whole (Mr. Green) reported that the amendment had been made according to the direction of the Convention.

Mr. MACVEAGH. Mr. President: I move that the Convention resolve itself into committee of the whole for the purpose of amending the first section of this article by inserting the first two sections

of the report of the special committee, slightly amended. If members will take the trouble to write the amendments as I give them, they will see whether or not they meet their views. I insert at the beginning of the article, "All railroads and canals shall be public highways, and." And then I go on:

"All railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad within this State, and to connect at the State line with railroads of other States."

Mr. BEEBE. Is the gentleman reading from the old or new report?

Mr. MACVEAGH. From the new report of the committee of seven. I leave out the words "subject to such regulations as are or shall be prescribed by law," for the reason given by the delegate from Allegheny, (Mr. S. A. Purviance,) that they are covered by the eleventh section, and that they would be capable of misconstruction.

The PRESIDENT. The gentleman will forward the amendment, so that the Clerk may have it on record.

Mr. MACVEAGH. The delegate from Columbia (Mr. Buckalew) tells me that he had written it word for word as I propose it; and I send it therefore to the Clerk as written by him.

The PRESIDENT. The delegate from Dauphin moves to go into committee of the whole for the purpose of making an amendment, striking out section one and inserting in lieu thereof what will be read:

The CLERK read as follows:

"All railroads and canals shall be public highways; and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose, shall have the right to construct and operate a railroad within this State, and to connect at the State line with railroads of other States."

Mr. MACVEAGH. I also ask to insert the second section of the new report with that, as a substitute for the first section of the original report.

The CLERK read as follows:

"Every railroad company shall have the right, with its road, to intersect, connect with, or cross any other railroad, and shall receive and transport, each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination."

Mr. MACVEAGH. Now, I trust the Convention, having decided this matter of form, I confess as I thought it ought to be decided, will endeavor, as far as we can, to yield a little in the effort to get a satisfactory result out of the comparison of these articles. It must be borne in mind by every gentleman here, that we have in the original article the principles to guide us, at least some of us think we have. But take this matter of a free railroad law. I believe in putting that in an article by itself—the declaration that all railroads are highways; that all railroad companies are common carriers; and the right to a free railroad law—putting it there without encumbrance. I think it is sufficient magnitude to have a section by itself. Then I include the second section of the last report. Those two sections are precisely the identical substance of the first section of the original report.

Mr. BEEBE. Except the word "individual."

Mr. MACVEAGH. I do not suppose really that any "individual" would be "organized for that purpose." [Laughter.] I do not think that any one man ought to be allowed to run a railroad or build one. I do not think any man wants to do it. If anybody wants to put in that "an individual organized for that purpose" may build a railroad, so be it. It is suggested that I say, "any association or corporation organized for that purpose, or any individual;" if gentlemen want it, let it be so; but really that is trifling with the subject. I think at least two men ought to agree before we have a railroad in this State.

Mr. CALVIN. I suggest to the gentleman that he insert the words, "railroad between any two points in this State."

Mr. MACVEAGH. "Within this State" includes that.

Mr. BIDDLE. I wish to ask a question of the gentleman now on the floor, if he does not object.

Mr. MACVEAGH. Not at all. I have no pride of feeling. I want to get this thing satisfactory if possible.

Mr. BIDDLE. I suggest to the gentleman whether it would not be better—it is in my apprehension—to put in on the third line, after the words "operate a railroad," the words "between any points." I know he means to cover that ground, and I do not think he will object to making it specific.

Mr. MACVEAGH. If the delegate from Blair and the delegate from Philadelphia suggest that, I will cheerfully accept that modification, inserting "between any points" after the word "railroad," in the third line.

The PRESIDENT. The amendment will be so modified.

Mr. BIDDLE. "Between any points within this State."

Mr. MACVEAGH. Well, "between any points within this State."

The PRESIDENT. The amendment will be so modified. Did the gentleman from Dauphin modify his amendment also, so as to include the word "individuals."

Mr. MACVEAGH. No, sir.

Mr. ARMSTRONG. I call the attention of the Convention to the fact that the insertion of those words is a limitation in restraint of the right of building railroads, and they were left out by the select committee for that reason.

Mr. BIDDLE. The language now is "between any points." I did not say "two."

Mr. CURTIN. Might it not be possible that it would add to the convenience of the public if a railroad be made in a circle? You cannot make a railroad in a circle if it must be between points.

Mr. MACVEAGH. If it goes in a circle it would certainly be between two points, or one point divided in two. You can make a circumference from one point.

Mr. CURTIN. I can understand how a line can be between two points, but a circle is not.

Mr. MACVEAGH. Half the circumference of a circle is between two points.

Mr. BROOMALL. I should like to make a suggestion to the gentleman from Dauphin, and I trust, inasmuch as he has offered what will probably be satisfactory to the House is some shape, that his time by unanimous consent will not be limited. Then I would suggest whether or not—

Mr. BOYD. I object to any extension of time.

Mr. BROOMALL. Then I will stop till he gets done. I have no objection to the gentleman going on.

Mr. MACVEAGH. Then all I want is simply to say that on this amendment I think the chairman perhaps will not differ from me, that the subject of a free railroad law, without limitation by the Legislature, the declaration of the right, is of sufficient gravity to head this article by itself; and the declaration that all

railways shall be public highways and all railway companies shall be common carriers is germane to that provision, and therefore the Convention will do well to adopt this substitute.

The second section of the last report covers exactly the same material in connection with the first as the first section of the original article, and it seems to me that we are not departing a hair's breadth from the original report of the Railroad Committee. Now, let us try to have a little unanimity. We all mean the same thing, I trust. Let us try to agree upon something that will have a majority of voices in its favor.

Mr. BROOMALL. Mr. President—

The PRESIDENT. Before the delegate proceeds, the proposed amendment will be read, so that there may be no mistake in the wording of it.

Mr. BOYD. Is it in order to propose two sections at a time?

The PRESIDENT. It is in order to strike out one section and insert two others in place of it. The amendment will be read.

The CLERK read the amendment of Mr. MacVeagh.

Mr. BROOMALL. Now, Mr. President, the question I desired to ask the gentleman from Dauphin was this: Whether it would not be safer to let the first branch of his sentence depend upon the law as it now stands, rather than insert it in the Constitution, for this reason: The legislation of the country and the decisions have made the railroads public highways, but not in the full sense of that term; in a qualified sense. That is well understood. They do not let everybody run everywhere on these highways just as they do on public roads. If we make them absolutely public highways there is some danger that it will be held to give everybody the same right upon them, and hence we shall have people traveling with their horses and wagons on railroads. The law, as it now stands, makes them public highways in a qualified sense; that is, public highways under the direction of those constituted their rulers and managers by law; and I think it is safer to let it remain in that way than to run the risk of what might be construed to be the meaning of the sentence if we put it in the Constitution. I suggest this, although I confess I am not particular about it.

Mr. PURMAN. I desire to make another suggestion, though I do not know

that the suggestion is of any importance. The section proposes to allow an association or corporation to build a railroad between any points in this State. Now, there are some points that we would not want to be occupied with railroads. I want the Convention to consider that they are surrendering every inch of ground in the State to be taken by any corporation or association that see fit to build a railroad. They might make Independence square one of the points. I know of no point so sacred as that it could not be taken under this constitutional provision. Cemetery grounds, church grounds, college grounds, in short, I know of no ground that might not be occupied under this section. How it can be avoided I am not prepared to state.

Mr. BUCKALEW. The section is all right without those words in it, allowing parties to build a railroad anywhere in this State to connect at the State line with railroads of other States, but certainly it is not the idea to permit any two individuals of this State to go and put a railroad on Chestnut street through this city, terminating on the banks of the Delaware, in spite of the sovereignty of this State and its Legislature. I insist that to say here that a company or association may put a railroad between any two points they please upon our territory is going a little too far. If we are to have such a clause in it, it ought to be "between any two places," leaving some reasonable right to the municipal authorities of this city as to the occupation of their city, or to the Legislature. And so with regard to burial grounds, which are carefully excepted in the present railroad laws, and perhaps there may be public property, such as wharves upon rivers or other points, where some regulation as to this general right ought to take place. I suggest therefore to insert "place" instead of "point." It might all be left out, and I think it would be perfectly well to do so.

As to the other point made by the gentleman from Delaware, (Mr. Broomall,) upon the insertion of the declaration that all these roads and canals are public highways, I am strongly in favor of putting those words in. If anybody questions that they are such, essentially and thoroughly, as the remarks of the gentleman would seem to indicate, I am in favor of inserting that declaration. Not one of these now in existence has been created upon any other principle than

that it was to be a public highway, nor ought any to be created hereafter except upon the same principle. It is true that these highways must be used in a particular manner. You cannot run ordinary country wagons upon canals; you cannot run ordinary country sleighs along a railway in the winter. These highways are to be used in a particular manner from the necessity of the case, and from the necessity of the case also the motive power upon them should be furnished by the corporation. What is meant is that these roads and canals are public highways for the uses to which they have been and must hereafter be applied. A man may put a boat upon any canal and run it at the rates of toll of the corporation. He may place his car upon any railroad and run it under regulations prescribed by the corporation or defined by law. He shall also have the right of transportation of goods and a right of passage as a passenger over these public highways. That is all. It is perfectly well understood and perfectly clear; and yet I know that there is some faint denial of this principle even in courts of justice and some attempt to limit and impair it, and therefore I am in favor of putting it in here. Especially is this the case with coal-carrying companies, who seem to think that because they have mining privileges they are only about half a railroad in carrying. We must not allow any man or association of men in this State to occupy an inch of ground which he does not own absolutely himself, unless his improvement is a public highway.

Mr. MACVEAGH. I simply wish to explain that this amendment does not interfere with the second section of the article at all. Both of these sections are included in the first section, and it is only as a substitute for the first section that the amendment is offered.

Mr. CUYLER. Mr. President: I have only a word or two to say. Gentlemen of the Convention will do me the justice to remember that I have not troubled them with any remarks scarcely at any period of the discussion of the railroad question. It has not been because I have been in sympathy with the views of the majority of the Convention, but precisely for the reverse reason. For some reason, which I am incapable of analyzing or discovering the cause of, it is the fact that experience or the knowledge derived from the accident of circumstances, or otherwise,

disentitles a gentleman to the confidence of the Convention in his discussion of this question, and that a man's title to speak and to be heard on this question, or to influence his brethren of the Convention upon it, is precisely in the inverse ratio of any opportunities of knowledge he may have had on the subject. Too conscious of this fact, sir, I have been silent all the way through, and I do not propose now to break that silence except in the way of the slightest possible suggestion.

We are here to make an organic law, and we are to take heed from those warnings which the past has given us. We are, as reasonable men, to insert nothing in the Constitution except something which has been made manifest to our minds by past experience as a necessity for the guidance of future conduct. Now, I desire to ask any gentleman in this Convention whether he knows or has ever heard of a railroad in the State of Pennsylvania that is not to-day a public highway and a common carrier? The gentleman from Columbia says that he has heard of some companies that were restive under such a provision. I have never had the fortune to hear it. I have never known of a railroad corporation in the State that doubted that it existed as a public highway and as a common carrier. It is part of the elementary railroad law of the State passed in 1849. It is part of the general railroad of 1868. It is inserted in the charter of almost every railroad company in the State in square words. They are common carriers, they are public highways by the very elementary law of their existence. Nobody doubts it; nobody denies it. Why write it in the Constitution of the State? It is surplusage; it is useless. It is not to meet any existing evil. It is not to touch any existing ground of complaint on the part of the people of the State. It is simply to put there in direct words what is already the law of the State beyond all question, and under which provision of the law, so far as I know, no individual and no corporation is, or ever has been, restive. Now, then, my objection to this section, as proposed by the delegate from Dauphin, and to the original section to which it is offered as an amendment, is that it is simply useless, and therefore should not be inserted here.

As to one or two other provisions of this same section I desire to say a single word also. Individuals are to have a

right to construct and operate railroads within this State, and to connect them at the State line with the railroads of other States. Why put that in this article? If the rest of this article is to be adopted, and we have had the most abundant assurances in the votes that have been taken that it will be, you are building a wall of brass around the State of Pennsylvania, and it is vain to authorize any railroad company in this State to connect its line with lines in another State. From the very hour that this Constitution becomes the law of this Commonwealth and shall be binding upon the railroads of the State, all intercourse by railroad lines between this State and other States ceases by a law that is just as inflexible as the laws of nature. I object therefore to that clause, because it is useless. You write elsewhere in the instrument that which will inevitably work out that result, and you need not put it here in direct words when you have already worked it into the substance of the instrument.

The PRESIDENT. The question is on the motion of the delegate from Dauphin (Mr. MacVeagh) to go into committee of the whole for the purpose of striking out the first section of the article and inserting a substitute.

Mr. BOYD. I call for the yeas and nays.

Mr. KNIGHT. I second the call.

The yeas and nays were taken and resulted as follow:

YEAS.

Messrs. Achenbach, Ainey, Alricks, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Bardsley, Barr, Beebe, Biddle, Bigler, Black, Bowman, Brodhead, Broomall, Brown, Buckalew, Calvin, Carey, Carter, Clark, Cochran, Corbett, Corson, Cronmiller, Curry, Curtin, Dallas, Darlington, Davis, Dodd, Elliott, Ewing, Finney, Fulton, Funck, Gilpin, Green, Harvey, Hazard, Heverin, Horton, Howard, Hunsicker, Lamberton, Landis, Lawrence, MacVeagh, Mann, Mantor, Minor, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Purviance, Sam'l A., Reed, Andrew, Rooke, Ross, Runk, Russell, Simpson, Smith, H. G., Smith, Wm. H., Turrell, Van Reed White, Harry White, J. W. F., Woodward, Worrell and Walker, President—76.

NAYS.

Messrs. Addicks, Baer, Boyd, Cassidy, Cuyler, Ellis, Guthrie, Hanna, Hay,

Hemphill, Lilly, Littleton, MacConnell, M'Camant, M'Culloch, Mott, Parsons, Smith, Henry W., Stanton and Temple —20.

So the motion was agreed to.

ABSENT—Messrs. Andrews, Baker, Barclay, Bartholomew, Bullitt, Campbell, Church, Collins, Craig, De France, Dunning, Edwards, Fell, Gibson, Hall, Kaine, Knight, Lear, Long, M'Clean, M'Michael, M'Murray, Metzger, Mitchell, Niles, Palmer, H. W., Pughe, Read, John R., Reynolds, Sharpe, Stewart, Struthers, Wetherill, J. M., Wetherill, John Price, Wherry, White, David N. and Wright —37.

The Convention accordingly resolved itself into committee of the whole, Mr. Russell in the chair.

The CHAIRMAN. The committee of the whole have been instructed to strike out the first section of the article and insert in lieu thereof:

"All railroads and canals shall be public highways; and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination."

The amendment will be made.

The committee rose, and the President having resumed the chair, the Chairman (Mr. Russell) reported that in accordance with the instructions of the House the committee of the whole had inserted the amendment directed.

Mr. HARRY WHITE. I move to go into committee of the whole for the purpose of adding the following in the section just inserted:

"The Legislature shall by general law give full effect to these powers and privileges."

I approve entirely and voted for this section as amended, but it will be observed that the section as amended is very comprehensive. While it declares all railroad and canal companies common carriers, and all railroads and canals highways, it also provides that any corporation or association organized for the purpose shall have the right to construct and open

rate a railroad between any points in the State. That is what we desire. That is practically a free railroad law without any restrictions. I apprehend we do not desire to allow any organization to construct a railroad without some restrictions in reference to damages and otherwise, I desire merely to reinsert the provision which has been omitted from the section.

Mr. MACVEAGH. Will the gentleman allow me to suggest that in the eleventh section of the report and the fourteenth section of the article there is ample provision for this matter.

Mr. HARRY WHITE. I ask for the reading of that.

Mr. MACVEAGH. The Legislature shall by general law of uniform operation provide reasonable regulations to give full effect to this article."

Mr. HARRY WHITE. This is the report of the committee of seven.

Mr. MACVEAGH. The fourteenth section of the article is:

"The General Assembly shall enforce by appropriate legislation the provisions of this article."

The PRESIDENT. That section was inserted on the motion of the gentleman from Chester, (Mr. Hemphill,) some days ago.

Mr. HARRY WHITE. I will withdraw the motion, although that section hardly comprehends what I desire.

Mr. CUYLER. I move to amend by inserting after the words, "every railroad shall have the right with its road to intersect, connect with, or cross any other railroad," these words: "Subject to such regulations as may be prescribed by law."

For years past the railroad companies of the State have been trying to get rid of grade crossings, so far as the Pennsylvania railroad is concerned, at an expense of millions of dollars; and there is to-day no more crying evil in the operation of railroads in this State than the unlimited power of crossing other railroads at grade. There is a point on the Philadelphia and Erie road where, in the space of twenty-seven miles, the Catawissa road crosses three times at grade. These grade crossings are always dangerous, and should be avoided wherever it is practicable to do so. We have a general law of the State now on that subject, which directs that such crossings shall not be made until after there shall have been an investigation by an engineer and a determination

that, taking all the conveniences and inconveniences together, it is wiser to cross at grade than above or below grade.

This section as it stands secures to every railroad now existing or hereafter to be created, an unlimited power in its mere caprice to cross the line of any other railroad at grade or in any other method, as it pleases, just as often and by whatever method it chooses. Such a power as that is too fearful to be contemplated for a single moment. I trust, therefore, that the Convention will see the propriety of imposing the reasonable limit which this amendment proposes, simply to regulate this thing by proper general laws.

Mr. TURRELL. I tried to get the eye of the Chair to move the insertion of these words before the vote was taken on the substitute, but was not able to do so. If delegates will look at the section as it stands without these words, they will see that there is no earthly limit to the power of railroads in this State. If gentlemen will read the section, they will see that my declaration is true. These companies may go with their roads anywhere they please, and there is no limitation whatever placed upon them. They may come through your city here or through any other place that their interests dictate, and you have no limitation whatever upon them. I ask gentlemen to look at it and tell me what limitation there is upon the power of railroads in this section unless you put in these words. That is the point which struck my mind, and I ask gentlemen to look at it. You must have some power to regulate them; but under this section they have no restraint, no regulation but themselves. Therefore I say we should put in this amendment. I will not multiply words upon it.

Mr. DALLAS. Mr. President: I rise merely for the purpose of saying that I entirely concur with the views expressed by the gentleman from Susquehanna, that without some phrase in this section somewhere subjecting these railroads to regulation of law, they will be placed practically beyond the law and we shall be putting railroads above the people, and this is a restriction against the people. But my difficulty with it here is where the gentleman from Philadelphia proposes to insert these words that they will affect only one portion of the section, that their crossings at grade will be subject to the regulation of law, but that in other respects they will be still left without any regulation of law.

Mr. CURTIN. I trust the words proposed will be inserted here for the reason offered by the delegate from Susquehanna. If we make a declaration in this Constitution that any man or combination of men can make a railroad in the State where they please, at any points, at their pleasure, the people of the State will be placed in the power of the railroads. Unless the manner in which the railroads shall be built under the free railroad law which we place in the Constitution can be indicated by the law of the State, and wholesome restraint thrown around it, we are here, instead of restraining railroad monopolies, giving them unlimited privileges. The naked section as it stands will place the people in the power of the railroads, instead of the railroads within the power of the people through their representatives. I sincerely trust that the force of the section will be limited by the words offered by the gentleman from Philadelphia.

Mr. BOYD. Mr. President: Under the Constitution of the United States, which provides that "no State shall pass any *ex post facto* law or law impairing the obligation of contracts." I apprehend that no existing railroad company in the Commonwealth can be compelled to construct its crossings either over or under a highway, nor can any duty be assigned to such companies by this Convention. Then the effect of this will be to prevent competing lines being constructed throughout the State, for the reason that in many instances it will be impossible for them to construct a road if they are obliged to go over or under an old railroad which is not bound to make any provision of that kind.

I am opposed to this amendment for that reason. The old railroads are all right. They can remain as they are under the clause of the Constitution of the United States which I have cited, and this will be a restriction against all the new railroads which may be proposed to be built hereafter, and in many instances it will be entirely impossible to construct them if this duty be imposed on those who undertake them.

Mr. CUYLER. Will the gentleman pardon a suggestion? No railroad existing in Pennsylvania now has the power to prevent the crossing of any other railroad authorized by the Legislature.

Mr. BOYD. Every existing railroad company can remain as it is, but any new railroad will have to conform to this ac-

vere regulation, and in many instances it will prevent the building of another road just because the new company will be obliged to conform to a regulation which is anticipated by this amendment, to wit, to cross over or under another railroad, the expense of which in many instances will render it impossible to build a railroad as they would otherwise be able to do.

Mr. DARLINGTON. The existing regulation which requires a new railroad crossing another to have a guard there at its expense to prevent collision, is a very important one. Such is the existing law now. The Legislature have regulated to some extent the right to cross roads and have authorized the courts to examine and require that the new road crossing the old one shall be at the expense of a watchman. That is one regulation and a very important one. Other regulations may be made to secure life and property. It is very important that such a provision as this should be inserted.

Mr. COCHRAN. I do not see that there is any necessity whatever for introducing this provision in this place. I am not at all fastidious about the language of this section or about the particular form in which it is adopted; but all this can be covered and provided for in a general section at the close of the article, and that I understood was the design upon which we were proceeding since we commenced this review. There is at the close of the report of the special committee a section declaring that "the Legislature shall by general law of uniform operation provide reasonable regulations to give full effect to this article." A provision of that kind would cover the whole thing; it would give the Legislature power to make all reasonable regulations on this subject. A section of that kind or something equivalent to it would meet all the objects of this proposed amendment, and would render it entirely unnecessary in any point of view, as I conceive, to put the words now proposed in this section. I hope, therefore, that the section will not be loaded down by the amendment, but that we shall let it stand upon the final provision of the article when it shall be adopted.

Mr. BIDDLE. Mr. President: Something like this language is found at the close of section one of what may be called the original article: "The Legislature shall by general law prescribing reasonable regulations, give full effect to these powers and rights." Certainly there

ought to be somewhere in this article some language of that kind. When the gentleman from Columbia was on his feet and objected to the introduction of the language which has been voted in, "between any points," he failed, and I think he will agree with me, for he is very candid always—in satisfying me at least that by the leaving out of those words what he wanted to reach would be done, because he immediately answered: "You can build a road anywhere in the State without those words," and therefore the instance given by him of the ability to build a railroad under this language between any points, as for example from some point on Chestnut street to the Delaware, would have remained the same without those words as with them. What we want in the section is certainly some general declaration on this point, and here I am sorry to differ with the chairman of the Committee on Railroads. I always differ diffidently from him on this subject; but I think there ought to be something first to prevent the occupation of territory actually occupied by an existing railroad, which the generality of this language would seem to admit of; next there ought to be something to prevent the case put by the gentleman from Columbia, next there ought to be something guarding, with reasonable care, the rights and interests of the whole community where these roads are allowed to traverse other roads in any direction. It is very important, for instance, that where an avoidance of a crossing at grade can be made, going under or over, it should be done.

I shall, therefore, vote for this language, first, because I find it substantially in the old article in the first section. I read that language to mean quite the same as this. For instance, the Legislature have a right to give full effect to the scope and purview of these two sections, which were the original first section, by laying down reasonable regulations, which is just the same as this; and next, because if it was not there, it ought to be. I am willing to surrender over bodily to these companies every privilege in the Commonwealth, and I am afraid the effect of our language, without some restriction like this, would be to do that very thing. I know very well what the apprehension is in the minds of the gentleman from York and the gentlemen who generally agree with him and me on this subject. They think that the Legislature, if this language is

introduced, will so hamper and trammel the section that it will in effect nullify it. I do not apprehend that, because they can only pass general laws now, and no general law that is fairly passed can have that effect. I think there may be a difficulty, but if I am driven to a choice of evils, I take that which I consider the least. I shall vote in favor of this amendment.

Mr. DODD. I am opposed to this amendment in this place for the simple reason that I think we should have a section giving the Legislature power by general law to make regulations to carry out this article. I think that is necessary, and that is provided for by section eleven of the report of the committee of seven, and by section fourteen of the article we are now acting upon. I think it should be done in that way, and not by repeating it here and there through the different sections.

Mr. AINEY. Believing that the section at the close of this article is substantially the same as section eleven, as reported and to be found in the report of the committee of seven, I shall vote against this amendment.

The PRESIDENT. The question is on the motion of the delegate from Philadelphia (Mr. Cuyler.)

The motion was not agreed to.

Mr. BUCKALEW. I desire to propose an amendment to the second section. I wish to strike out the word "or" in the first line, and insert "and," so as to read: "Every railroad and canal corporation organized in this State shall maintain an office therein," &c. I ask unanimous consent to make this correction.

The PRESIDENT. Will the Convention unanimously agree to the amendment of the gentleman from Columbia? ["Aye." "Aye."] The amendment is made.

Mr. BUCKALEW. I also ask consent in the third line of the same section to change the sentence so as to make it read: "An office therein, where transfers of its stock may be made, and where its books shall be kept for inspection," &c.

The PRESIDENT. Will the Convention unanimously agree to that amendment? ["Aye." "Aye."] The Chair hears no objection and the amendment will be made.

Mr. BUCKALEW. Now, I come to matter more material. I desire in the third and fourth lines of the section to strike out the words, "stock or bondholder or any other person having any pecuniary interest in,"

and to insert "any stockholder or creditor of," so as to read: "For inspection by any stockholder or creditor of such corporation." I ask unanimous consent to make this amendment.

The PRESIDENT. Will the Convention unanimously agree to the amendment? ["Aye." "Aye."] It is agreed to.

Mr. BROOMALL. If there is not a section somewhere in the article on private corporations preventing the State from over surrendering the right to tax any corporation, I would suggest that such a section should be there, even if we should dispense with the third section here as unnecessary. I would ask whether there is such a provision in the article on private corporations as prevents the Legislature from surrendering the power to tax the property of any or all corporations.

The PRESIDENT. The Chair is not able to answer the question.

The CLERK. There is, in the article on private corporations.

Mr. BUCKALEW. One can be drawn. I desire to mention, that as I understand it, the Committee on Schedule desire to insert the thirteenth section of this article in the schedule and the committee of seven recommended that it be inserted there. With that view I move to strike out the thirteenth section.

Mr. HOWARD. No.

Mr. BUCKALEW. It is not matter proper to be embodied in the Constitution itself.

Mr. MACVEAGH. I would suggest to the gentleman from Columbia that we had better go, section by section, over this article. I think we had better consider if no gentleman has any other amendment to propose to the second section, that the section is passed and take up the next. I call for the reading of the second section as amended.

Mr. BUCKALEW. Very well.

The PRESIDENT. The second motion as amended will be read:

The CLERK read as follows:

SECTION 2. Every railroad and canal corporation organized in this State shall maintain an office therein, which transfers of its stock shall be made, and where its books shall be kept for inspection by any stockholder or creditor of such corporation, in which shall be recorded the amount of capital stock subscribed or paid in, and by whom, the names of the owners of its stock and the amounts owned by them, respectively, the trans-

fers of said stock, and the names and places of residence of its officers.

The PRESIDENT. Is there any amendment to be suggested to this section?

MANY DELEGATES. No. No.

The PRESIDENT. If not the Clerk will read the third section.

The CLERK read as follows:

SECTION 3. The property of railroad and canal corporations, or other corporations of a similar character doing business in this State, and of other joint stock companies now existing or hereafter created, shall forever be liable to taxation, and the power to tax the same shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

Mr. BROOMALL. I move to go into committee of the whole to strike out that section and substitute another with a view to let the Committee on Revision and Adjustment transfer it to the article on private corporations. The section itself seems a little longer than is necessary, if our desire is to accomplish what we sought in our recommendation at the foot of our report; that was that the property of all corporations should be in the same way liable always to taxation, and that the right should not be surrendered.

I move, therefore, to go into committee of the whole in order to strike out the section and insert:

"The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which this State shall be a party."

Mr. MACVEAGH. I cannot see but that this section includes every idea belonging to the third section. If so, I hope no pride of authorship or opinion will stand in the way of the adoption of the substitute, but that we may adopt it unanimously.

The PRESIDENT. Will the Convention unanimously agree to the amendment?

Unanimous consent was given, and the substitution was made.

The PRESIDENT. The fourth section will be read.

The CLERK read as follows:

SECTION 4. No corporation engaged in the transportation of freight or passengers in or through this State shall make any discrimination in charges for the carriage of either freight or passengers, of the same class, between or against the people thereof, and no special rates or drawbacks shall, either directly or indirectly, be allowed, excepting for excur-

sion and commutation tickets. Reasonable extra rates, within the limits of the charter of a company, may be made in charges for any distance not exceeding thirty miles.

Mr. MACVEAGH. I have an amendment to offer to that section.

I move that the Convention go into committee of the whole for the purpose of striking out the section and inserting as follows:

"No corporation engaged in the transportation of freight or passengers shall make any discrimination in charges for the transportation of either freight or passengers, of the same class, which is not proportioned to the expense of such transportation; and no special rates shall, either directly or indirectly, be allowed, excepting for excursion or commutation tickets."

I should be very glad to have for five minutes the attention of this Convention to state the substance of this proposed section. I have laid it before such gentlemen as I came in contact with. The language is not especially mine, but it seems to me to express a perfectly true principle, just the principle indicated by the delegate at large from Philadelphia, (Mr. Woodward,) and at the same time it seems to me to be in harmony with the law of trade invoked by the distinguished delegate from the same city on my right (Mr. Carey.) That is, that the through freight shall be carried at its own cost, that we shall not attempt to say that through freight shall be carried at local rates; but on the other hand we shall say that this State shall not be made a thoroughfare to the detriment and injury of her own people, in order to allow any particular corporation to compete with the corporations of other States.

That is what I understand to be the natural law, that if I take a ton of freight to the office of the Pennsylvania railroad company in this city and ask them to transport it three hundred and fifty-six miles, to Pittsburg, I ought to pay the proper expense and profit of that transportation; and if I have another ton of freight which I ask them to transport three thousand miles, to San Francisco, I ought not to pay the exact multiple of the distance of three hundred and fifty-six but I ought to pay a rate proportioned to the expense of that transportation. It is cheaper to deal by wholesale than by retail as the gentleman himself (Mr. Woodward) admits; but some limitation must

be imposed upon the right of a company to regulate its charges, or else freight for local points in this State, freight for the great eastern and western cities of this State, may be discriminated against by imposing upon that freight a proportion of the expenses of the company which the through freight ought to bear. It is an utter fallacy to say that if railroad companies carry through freight for less than it costs them, they can fail to make up the deficiency by additional charges on local freight. How is it possible to carry a thousand tons of wheat from Chicago to New York through the entire length of this Commonwealth for less than its due proportion of the expenses of the company without my paying upon my local tonnage an undue proportion of those expenses? Why should not both classes of freight and every class of freight bear its due proportion of the expenses of transportation?

The learned delegate from Philadelphia (Mr. Carey) declares that a man carried one mile ought to pay more per mile than a man carried a hundred. Clearly so; but we ought not to allow a man to be carried one hundred miles for less than it costs in order that the man carried one mile may be charged more than its costs. There is no difficulty about this matter. It seems to my mind you are in danger of confusing totally different things, one is what is necessary to let the fast freight lines on one road compete with the fast freight lines on another. If that is the problem here, you do not then want any regulations whatever. But if the problem is to secure equal and exact justice to everybody, then you do want a principle of equal and exact justice put in this Constitution. The practical details of any system will depend much upon the working of it; all that we can hope to do is to incorporate into the organic law a principle of justice that will, if honestly applied, work justice in detail, and it seems to me that such a principle as I have offered will do it. I am at a loss to see why it should not be adopted, or some kindred proposition that will reach the same end. I think it is dangerous to attempt to say, that beyond thirty miles the charges shall be the same per ton per mile. That is not honest. The man who carries his freight from Philadelphia to Harrisburg ought to pay a fraction more per ton per mile than a man who carries his freight from Philadelphia to Pittsburg, and the man who

carries his freight from Philadelphia to Pittsburg ought to pay a fraction more per ton per mile than a man who carries his from Philadelphia to Chicago. Why? Because the rule I stated yesterday is ir-repealable and universal—as the subject matter of a contract increases in magnitude the relative price of it decreases. I dissent from my learned friend that we ought to take any advantage as Pennsylvanians. I do not believe it is necessary that we should take any; but I do cordially and heartily go with him in his proposition that we are not called upon by any law to impoverish ourselves to enrich the East or the West beyond the limits of our own State.

Let our local freight pay its fair proportion of the cost of transportation; let the through freight pay its fair proportion of the expense of transportation. If gentlemen object that the proposition is not definite, I am compelled to believe that any attempt to make them more definite seems to me likely to result in a practical injustice, and in a system that will be open alike to argument and to ridicule, because of its impracticability. But when you simply say that every passenger carried shall bear a rate proportioned to the expense of carrying him, that does justice. The expense of carrying a man one mile he ought to pay; the expense of carrying him one hundred miles he ought to pay; the proportionate expense of carrying him a thousand miles he ought to pay; but he ought not to pay by the mile. He ought to pay his proportion of the services he receives. Will it not protect our own people? Will it not do justice to everybody far and near?

I have no pride of opinion upon this matter. I have given to the matter some prolonged consideration, and it seems to me that the principle I invoke is capable of practical application and is capable of being made the basis of the regulation of these carrying companies in the fundamental law, and that any other principle yet suggested here is in danger of running to the one extreme or the other of allowing the companies to discriminate against us or of discriminating ourselves against our neighbors; and to either proposition I am inexorably opposed. I am opposed to allowing any railroad company to build up one town and depress another, to encourage one industry and destroy another, to give favors to one individual and to strike down another; and I am equally opposed to saying to the people

of this nation, from California to Maine: In all other States you may travel at wholesale rates, but the moment you touch the borders of the State of Pennsylvania you shall pay, not a fair rate proportioned to the magnitude of your contract, but a special local rate proportioned to the accidental length the railroad passes through our borders.

That is not, as it seems to me, a true standard, but the standard proposed in this amendment appears to me to be true. But whatever may be the fate of it; whether you amend it, reject it, or substitute something for it, whatever may be done with it, I do trust that upon this great question of dispute we shall reach some principle of justice that will be acceptable to the majority of this body and that will be capable of practical application in the working of the Constitution.

The PRESIDENT. The question is on the motion of the delegate from Dauphin.

Mr. BIDDLE. Mr. President: I rise rather to provoke some more discussion than to speak myself. So far as I have followed the delegate from Dauphin I have concurred with him, but I confess to not possessing a sufficient, thorough understanding of this subject to know whether his substitute is better than either of the sections on this subject in the original article and in the reported article. I can only say that I am well impressed with what I have heard from him. I should like to hear from the chairman of the Railroad Committee, and from other gentlemen who I know have devoted great consideration to this article, how they view it.

Certainly the thought developed in the substitute offered by the gentleman from Dauphin that a man traveling the whole line of the State should never pay less than him who traverses a mile of it, meets my entire approval. Then as to through trade, I can see that the way to regulate that is not by fixing a rate per mile per ton or passenger, but by some proportionate charge as to the expenditure. I should like to know how that strikes other gentlemen here before I vote. I was a little surprised to find that no one rose to speak to what I consider the fundamental section of this article; certainly the one that has provoked more difference of opinion heretofore than any other section. I think if we get over this section, we shall probably harmonize as to everything else.

Mr. ALRICKS. Mr. President: As the chairman of the committee has not responded to the delegate from Philadelphia, I will not attempt to respond for him; and I hope to hear from him after I have concluded.

I am opposed to discriminations. I know how it can work injustice; and yet I confess that I have listened with great attention to the argument of the distinguished gentleman from Philadelphia in front of me, (Mr. Carey,) to the gentleman from Union county, (Mr. Rooke,) both of whom were opposed to this section. This section has given me more trouble than any other section in the article. I am opposed to discriminations, and I am not disinterested upon that subject. I will mention what occurred on my last return, after our vacation, from the Convention to Harrisburg. The discrimination there was against a passenger. I had paid for my ticket. I was entitled to a first-class seat, but I was obliged to take a seat in the smoking car. I did not select a Pullman car. Now, I never smoke myself, and although it may be very proper that a gentleman of this Convention who is in favor of certain proper railroad restrictions should be smoked out, yet I confess that I doubt whether that matter is justifiable; and I only mean to say that while this is an isolated case, yet when we consider that hundreds and hundreds of thousands of these cases occur every year, it is proper that even in a Convention of this kind, making the fundamental law, we should take care that there should be no unjust discrimination.

This remark does not apply alone to the Pennsylvania railroad company. It applies to the Reading railroad company, because I was treated in the same manner on that railroad. I was told by the conductor on the Pennsylvania railroad cars when I spoke to him that there was no other car but the ladies' car, and that gentlemen were not permitted to enter the ladies' car, and therefore I was constrained to take a seat in the smoking car.

I say that where there are thousands and hundreds of thousands of cases of this kind, it is proper that in the fundamental law they should be noticed. But I can understand very well where you do not break bulk that they should charge at less rate for carrying freight from Chicago to Philadelphia than they should for a shorter distance. That is easily understood. But I refer now to a

matter of fact. I state as a matter of history that in 1780 and 1790 nails were sent from Harrisburg to Pittsburg by pack-horses.

What I wish to mention at this time, it is a new matter, is that we are about sending iron from Philadelphia to California. I got in company with a gentleman (Mr. Alan Wood) last evening, who told me that he had made a large contract for sending iron from the city of Philadelphia to the city of San Francisco. Now, we come to the point. He spoke to the Pennsylvania railroad company and he wished to know at what rate he could send his iron to San Francisco, and he was told that he could send it there, if I am right in my figures, at five dollars a ton. He then made his inquiry and he learned that he could send his iron by the Baltimore and Ohio railroad at two dollars and a half per ton.

Now, I appeal to members of this Convention if the Pennsylvania railroad company cannot afford, in competing with other railroad companies, to reduce their price, or if our railroad companies cannot compete with other railroad companies and reduce their price, we should do nothing that would require them to put a greater price upon their freight; because if it is a fact that this southern company can carry freight from Philadelphia to San Francisco at one hundred per cent. less than our own companies can carry it, then, of course, we ought to take care to introduce no provision in our fundamental law that would break down our own company. The query with me is, why cannot our railroads carry as cheap as any other:

Mr. President, in looking at this section I confess I have been embarrassed by the arguments that have come from the gentleman from Philadelphia and the gentleman from Union county, and yet as the section passed before I believe it was in a better shape than it would be with the amendment of my colleague, the gentleman from Dauphin (Mr. MacVeagh.) Therefore I shall not be able to support his amendment without further light on the subject.

Mr. CALVIN. Mr. President: This proposition is new to me, and I believe it has never been before submitted to the Convention; but the principle contained in this section submitted by the gentleman from Dauphin appears to me to be the precise and true principle; that the charge for the transportation of freight or pas

engers should be in proportion to the expense. That is the right principle. The only question with me is to know how we are to apply the principle; but certainly that is the correct principle.

Now, the idea of charging a man who is transporting freights, for example, from Altoona to the east the same amount that is charged for the same freights from Pittsburg, is an outrage. The expense is much less, and the charges ought to be proportionately less. The true principle, no doubt, is contained in this amendment, and the only question is how we shall apply it, how would it operate; and I should be very happy to hear some gentlemen here who have more experience than I have, express their views on the subject.

Mr. T. H. B. PATTERSON. Mr. President: This proposition, in the precise form in which it is, is a new one to the Convention. It is new to me in its exact language, although its general idea is one that I favor very strongly, because it seems to strike the medium between the two opposing interests on this section. Now, I would like to suggest to the Convention that by mutual consent section four be allowed to go over until to-morrow morning, and that all propositions covering the ground of section four be printed and laid upon the desks of members to-morrow, because this is a most important section, and I think by so doing we shall get at the various ideas of various delegates and in that way arrive at some medium course.

I do not insist on this though, but I suggest it for the action of the Convention.

Mr. HOWARD. Mr. President: This question is one of very great magnitude. I would not be willing to say that I would oppose this amendment. I have contended for the fourth section because I believed it was no more than right and justice to the people of this Commonwealth. I should be perfectly willing to make any concession in the fourth section that would be practicable and that the railroad companies could not use in an unfair manner against their shippers. If the section now offered can be carried out practically in any way, the principle seems to be a fair one; but it is new, entirely new. The other matter was familiar to us. It was one that we had considered long and earnestly. It seems to me that it would be far better to have this section printed and laid on the desks of delegates to-morrow morning, and proceed with the consideration of the bal-

ance of the article. There is undoubtedly enough in the rest of the article to occupy the attention of the Convention during the remainder of the day.

I do not say that I am going to oppose this section, but I do not like the language used, "which is not proportioned." I think, at any rate, it should be changed in this way: "Larger than is proportioned;" that is, that they should not charge any sum larger than the expense proportioned to the transportation. It should be a word of limitation, that they should not charge a sum greater, a sum larger than would be necessary to proportion the expense of transportation. Words, of course, are very important things, and they are very important in making a Constitution; and I think the insertion here of such a word as I have suggested might be of vast importance in the construction of this section.

I think it is not asking very much of the Convention to ask them to pass this matter by for the present. It is now twenty minutes after two o'clock. Let the amendment be printed, and let us consider of this matter, at least over night, before we make a change in the section.

Mr. MACVEAGH. If the gentleman will allow an interruption for a moment, if it meets the view of the House I will withdraw the amendment and ask the Clerk to have it printed and laid on the desks in the morning, and then we can spend the rest of the day in perfecting the other sections of this article.

The PRESIDENT. The gentleman can withdraw his proposed amendment. He has control of it.

Mr. BUCKALEW. On this fourth section I desire to say a word or two.

Mr. HOWARD. I believe I have the floor.

Mr. MACVEAGH. I beg the gentleman's pardon. I thought he suggested that I should temporarily withdraw the amendment.

Mr. HOWARD. Yes, sir.

Mr. MACVEAGH. And if that was the sense of the Convention, I wanted to do that.

The PRESIDENT. The gentleman from Dauphin has the right to withdraw his amendment.

Mr. HOWARD. He can offer it again to-morrow morning.

Mr. BIDDLE. I should like to see it printed. I do hope something of that kind will be adopted.

Mr. MACVEAGH. Then I withdraw the amendment, and I ask the Clerk to have it printed.

Mr. BUCKALEW. Mr. President: I have not seen any section upon this subject of discrimination in freight and charges or upon limitations in freight and charges which was satisfactory to my mind. Even that reported by the select committee of seven I think is open to some criticism, and much more the section in the original report which is now before us; and it seems to me that the amendment suggested by the gentleman from Dauphin will leave the subject very indefinite and imperfect in form.

Now, sir, I confess that I do not know much about the details of railroad workings, and I dare say a large part of the members of the Convention are exactly in my condition; and when we had the report of this committee before us upon former occasions, in my ignorance and in the uncertainty of mind under which I rested, I was compelled to vote aye for sections that I could not approve or perhaps did not understand; and that condition of things in this Convention accounts for what has taken place, without any disrespect to anybody, and without any disposition of any member to control this subject or to embarrass others in its proper consideration.

The difficulty lies in the subject itself, in attempting to handle this subject in the fundamental law of the State, for it is new. There is nothing like it in any Constitution which we have ever had in Pennsylvania, and there is very little upon this subject in the Constitution of any other State; and yet it is a subject of the highest importance, and presses upon us for some sort of solution. We are required to limit abuses in railroad management, but in limiting abuses we are to be careful that we do not produce a reaction by making our arrangement so difficult, so impracticable or unreasonable, that public opinion will veer about presently and give to these companies perhaps larger privileges than they ought to possess in the future.

What I protest against is this impudent attempt to classify members of this Convention as railroad men and anti-railroad men. Sir, there is no warrant for remarks of that character upon this floor, or for imputations of that kind in newspapers beyond our chamber. There is no defined line of division among the members

of this Convention between favoritism to railroads and antagonism to them. The great body of the members on this floor are perfectly independent on this subject, moved neither by unreasoning hostility to corporations of this kind, nor by favoritism and partiality towards them. What the great body of us desire is not a Constitution that shall cripple these companies, upon the one hand or give them undue indulgence upon the other, but a Constitution that shall be right, that shall do justice between the people and the corporation, and that shall be workable in the future, so that embarrassment shall not result.

Now, on this subject of freights and charges, what is this fourth section in the article? Why, sir, it allows the railroad companies to do what they please within a limit of fifty miles. They may charge as they please upon any railroad within the distance of fifty miles from the point of shipment to the point of delivery, limited only by the rates which have been prescribed in the special charters which have been granted to them or imposed by the general railroad law of the State. No member of this Convention is so ignorant as not to know that those maximum rates imposed in our general legislation are really no limitation at all. They were placed in our laws when railroads were just beginning to be constructed, when there was no information adequate to enable us to fix rates, to fix maximums or minimums of railroad charge. The result is that those rates in many, if not most cases, are about two or three times over what is now a reasonable charge for railroad service; so that in point of fact there is not now upon these companies any substantial limitation by reason of the maximum rates imposed upon them in their charters; and yet this fourth section allows any railroad corporation in this State, by virtue of constitutional provision, to charge up to those maximum rates, whether they are unjust, unreasonable and pernicious to the people or not. I protest against putting into the fundamental law such a charter and license as that to all the railroad corporations of the State. It is not right. It is not a provision that this Convention ought to adopt or the people ought to approve.

Mr. COCHRAN. If the gentleman will allow me a moment, I did not hear exactly what he said, but I understood him to say that this section would allow the companies to charge up to the maximum

rate. It is possible for this Convention or any other to prevent that when the maximum rate is fixed in the charter of the company?

Mr. BUCKALEW. Mr. President: We are fixing the Constitution for the future as to railroad companies, and it is insisted by those in existence that they hold the right under their charter to charge these maximum rates. I do not propose to ratify their argument in that respect, and I do not propose to have railroad companies hereafter constructed run under this maximum principle. I think, therefore, that as to short distances the report from the select committee of seven is infinitely better for the people of the State. It is a general provision that no "undue or unreasonable" rates or charges shall be made in any case to anybody for transportation over any railroad in this State; and what is undue and unreasonable will be left measurably to legislation from time to time as it may be necessary, and to the judgment of our courts of law. However that may be, I insist that this provision as to fifty miles of distance on any of the railroads of this State is exceedingly unwise, against the interests of the people, and confers upon railroad companies a large measure of the most odious power and privilege, and yet, sir, do we not all know that we cannot adopt this fourth section and the eighth section without something limiting their general terms? Do we not know that it is impossible to run these railroads upon exactly the same rates of charge for all distances and under all circumstances? Under the pressure of this absolute necessity this limitation of fifty miles has been placed upon it.

SEVERAL DELEGATES. Thirty miles.

Mr. BUCKALEW. It is fifty miles in the original section of the Railroad Committee, and the committee of seven made a report placing it at thirty.

Mr. CALVIN. It is thirty now.

Mr. BUCKALEW. Well, sir, whether it is one distance or the other, I protest against it. The injustice of railroad companies of which most complaint is made is upon the short distances; that, for instance, in transporting coal from the Wyoming valley to my own town or to the town of Danville, within the limits of thirty of fifty miles, there is no limit, no restriction upon the railroad companies that practically amounts to anything; and I object to crystallizing that condition of things as to all companies, present and future, in the Constitution of the State.

You must have some flexible rule. You cannot, however much you may desire it, make a tariff of railroad charges here in this Convention. You must repose confidence somewhere, in the Legislature or in the courts of justice, or as they do in New Jersey, in a railroad court or commission which has certain jurisdiction and powers over questions of this kind.

What I rose principally, Mr. President, for was to point out this objection which I have to the fourth section as it is contained in this article now before us for consideration, and to insist upon it that something in better form should be substituted for that section and for the eighth, something which we can reasonably vote for, and in connection with my remarks upon this subject once for all, as an independent member of this Convention, to protest against this attempted system of terrorism upon us by classification as "railroad" and "anti-railroad men." Now, sir, after some fifteen or twenty years of public service in the Legislature of our State and elsewhere, I am prepared to say that my record will bear inspection upon this question; that no railroad corporation, from the first charter upon which I was called to vote down to the nine and a half million bill, ever got a vote from me for an unjust or unreasonable grant of corporate privileges; nor do I intend in this Convention that any railroad interest shall get a vote from me which shall give to them or secure to them any undue advantage over the people of the Commonwealth, or any opportunity to oppress them, but I insist that I shall retain full possession of my mental faculties, of my common sense and common reason to pass upon all these questions without lectures from Pittsburg or from anywhere else, or extravagant and false statements regarding the position of myself or others upon this floor.

Mr. T. H. B. PATTERSON. I ask permission of the House, by unanimous consent, to offer a resolution for the handing in and printing of all propositions to amend section four, so that we can have them on our desks in the morning.

Mr. HUNSICKER AND OTHERS. I object.

Mr. MACVEAGH. I trust we shall proceed to consider section five.

The PRESIDENT. Section five will be read.

Mr. H. W. SMITH. Section four has not been disposed of.

The PRESIDENT. It is passed over for the present.

The CLERK read section five as follows:
SECTION 5. No railroad, canal, or other corporation, nor the lessees, purchasers or managers of any railroad or canal corporation, shall consolidate the stock, property, or franchises of such corporation with, nor lease, purchase, or in any way control, any other railroad or canal corporation, owning or having under its control a parallel or competing line, nor shall any of the officers of such railroad or canal corporation act as an officer of any other railroad or canal corporation owning or having the control of a parallel or competing line; and the question whether railroads and canals are parallel or competing lines, shall always be tried by a jury in a trial in open court, as in other civil issues.

Mr. KAINÉ. I have an amendment to propose to that section.

Mr. H. W. SMITH. The fourth section has not been postponed by a vote of the Convention.

The PRESIDENT. Not by a vote, but by acquiescence.

Mr. H. W. SMITH. I objected to it, and I object to it now. It is not in order to take up the fifth section.

The PRESIDENT. The entire article is before the Convention.

Mr. KAINÉ. I move to go into committee of the whole for the purpose of amending the fifth section.

Mr. J. M. BAILEY. Is some section of this article before the Convention more than another?

The PRESIDENT. Certainly not.

Mr. J. M. BAILEY. Why was the third section ordered to be read?

The PRESIDENT. It has been read.

Mr. MACVEAGH. There was a general consent to act on the amendments section by section.

Mr. KAINÉ. My amendment is in section five, line eight, to strike out the word "always" and the word "decided" and to insert "tried," and in line nine, to strike out all after the word "jury," so as to make the clause read: "The question whether railroads and canals are parallel or competing lines shall be tried by a jury," leaving out all the rest.

The PRESIDENT. The question is on the motion of the delegate from Fayette.

Mr. KAINÉ. I supposed that at the end of this article some clause would be put in, something like if not exactly the one that was appended to the report of the committee of seven, that the Legislature shall by general law carry out the pro-

visions of this entire article. Therefore it is certainly unnecessary to have anything of this kind in this section, particularly that part which relates to a trial according to the course of the common law. I do not know of that expression being used anywhere except in the second article of the Constitution of the United States, and there it relates alone to a trial of cases in the courts of the United States by a jury. This will make it good sense.

Mr. CUYLER. I should like to ask the gentleman from Fayette why he does not move to strike out the whole clause in the view which he has. Why provide for one particular method of trial for a corporation differing from that which is applied to all other citizens of the Commonwealth?

Mr. KAINÉ. I will answer that question. This matter has been insisted on somewhat by the Committee on Railroads, and as I did not think it can do any harm in this way, I was willing to let it stand with the modification I proposed.

Mr. HOWARD. It so happens that the article which we have substituted for the report of the committee of seven has not the words "common law" in it to which the delegate from Fayette objects. They are not there, and I ask for the reading of the last line or two of that section, to show how the matter now stands.

The CLERK read as follows:

"And the question whether railroads or canals are parallel or competing lines shall always be decided by jury in a trial in open court, as in other civil issues."

Mr. KAINÉ. When was that amendment made?

Mr. HOWARD. That is in the substitute that was put in in place of the other.

Mr. KAINÉ. If that section has been amended as the gentleman says and as it has now been read, of course my amendment is unnecessary, and therefore I withdraw it.

Mr. HOWARD. Very well.

The PRESIDENT. The Chair will state that, unknown to the Chair, for he was not observing it, the article on railroads as offered by the delegate from Philadelphia (Mr. Temple) as a substitute for the article of the committee of seven contains some amendments not in the article as it passed a third reading.

Mr. HUNSICKER. I wish to ask a question and I should like somebody to answer it. What is meant by "parallel or competing lines?" Is that word "or" to disjoin the two or to connect them? Ev-

ery railroad line as I understand it may be a competing line, although it is not a parallel line. Every railroad which carries the same sort of freight may be a competing line with every other road. I would like to know definitely what is meant by the words "parallel or competing lines?"

Mr. CUYLER. In my view, the wish of this body is effectually and better illustrated by this clause than by any other. The railroad companies are not even to have the ordinary tribunals of justice to go to. Their rights are not to be passed upon and decided as the rights of other citizens of the Commonwealth are. A particular mode is to be prescribed by the Constitution, whereby the law and the facts are both to be placed in the control of a jury according to the course of the common law. The jury are to be the judges of the law and fact. Does any citizen in this Commonwealth stand in any such position as that with reference to the law? And why is it that the rights of corporations are to be determined purely by the whims and caprices of juries, without a particle of power or control on the part of the court, for that is the section.

Mr. WOODWARD. Mr. President: I agree that this proposition will be found impracticable. All these questions as to the power of railroad companies to do or not to do a thing which is forbidden, are questions for the courts in the form generally taken of a bill in equity for an injunction to restrain them or requiring them to do or not to do a particular thing. Now, in equity, as you very well know, the chancellor may order any issue to a jury that he finds necessary to inform his conscience, and you have thus got at present, in the general rule of law, all the jury that is wanted in such cases as this. But in general, in most instances, a jury would be worse than nothing. When I had the Lehigh coal and navigation company on the one side and the Lehigh Valley railroad company on the other side, before me at *nisi prius* for nearly a twelfth-month, the question being whether two railroads could be built where God and nature never intended one to go, what would I have done with a jury? I held court three times up the Lehigh, and I could not have managed a jury there. There was no jury in the case, and it would be absolutely monstrous for us to put it in the Constitution that on these railroad questions a jury shall be employed, whether from the nature of the case they

can be profitably or properly employed or not. I agree that circumstances may arise in an equity proceeding in which a jury to ascertain the facts would be necessary, and then the chancellor has power to send that issue to the common pleas now, so that it does not need any legislation on the subject of jury trial. I am a great stickler for trial by jury; I stand by it to the last shot in the locker; but do not let us over-load this railroad article with provisions which I tell you cannot be carried out in practice.

Mr. CALVIN. Allow me to suggest to the gentlemen that it is only in relation to the question in fact, whether the lines are competing and parallel.

Mr. COCHRAN. The clause that is under discussion now does not submit every question that arises to the determination of a jury, but it does submit that which is a question of fact, and fact only, whether railroads are parallel or competing lines, to the decision of the jury; and that is the appropriate tribunal to determine the fact, and that is a fact which can as well be determined by a jury in a chancery or equity proceeding as it can be in a common law proceeding; but all that is necessary is to direct the issue to try that fact. It is an essential fact in all these questions to be ascertained whether or not railroads are "parallel or competing lines." There is no tribunal in this country, and there has not been since the beginning, which was thought fit to ascertain facts and to decide on questions of mere fact, except the jury trial. Now, if it was to conclude other questions and other matters, I would admit that the clause ought not to be inserted; but here is no single, distinct or separate question, whether or not two railroads are parallel or competing lines. If they are, it is to be tried by a jury in open court as any other civil issue is tried. That is to say, it is to be tried just as we try any other case, in a court before a judge, and the trial by jury is to be regulated by the rules that govern all the other trials by jury.

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

Mr. COCHRAN. Certainly.

Mr. HUNSICKER. I desire to ask him what is the jury to inquire into? Are they to inquire whether lines are parallel and competing, or whether they are parallel or competing?

Mr. COCHRAN. Parallel or competing.

Mr. HUNSICKER. Then, what instructions would you give them? If they are simply parallel lines, cannot a parallel line buy up another parallel line?

Mr. COCHRAN. No.

Mr. HUNSICKER. Why not? They cannot buy up a parallel line if it is not a competing line. Now I submit that every line of railroad is a competing line for the carrying of freight.

Mr. COCHRAN. I do not think so.

Mr. HUNSICKER. I would just merely remark that the gentleman does not seem to apprehend that fact that the word "or" is in the section as it is on the Clerk's desk.

Mr. HOWARD. We had a practical illustration the other day as to what a competing line was that was not a parallel line, because the Pennsylvania Central railroad is one road and the other railroad, which was not parallel to it, ran south, but still is a competing road. I know a delegation of seven hundred people from Pittsburg, who came to the city of Philadelphia, went south and took the other route. They did it because it is a competing line. It is a competing line to Washington city. It is a competing line to Baltimore and to the whole southern seaboard. It is a competing line, but it is not a parallel line.

Now, sir, the people of other States have thought it fit and necessary to provide that one railroad should not gobble up all the other railroads. They have provided so as to protect their people as far as possible against these great monopolies. This section is intended for the same purpose. It is a part of the system to, if possible, restore some rights to the people that have been taken from them, so that if we get a parallel line, then that line shall remain an independent line, that it shall not be officered or controlled or gobbled up by the managers of any other parallel line.

Suppose that we get another line between the city of Philadelphia and the city of Pittsburg, as we hope to do. We hope some day, in connection with the one hundred and four miles of railroad already constructed from the city of Philadelphia to the city of Harrisburg—I allude to the Philadelphia and Reading railroad company—to construct a line from Harrisburg to Pittsburg, which although it may not be parallel to the Pennsylvania railroad, will be a competing line with it, and we do not expect to be

entirely at the mercy of this great corporation.

The PRESIDENT. To what amendment is the gentleman speaking?

Mr. HOWARD. I am speaking to the amendment of the gentleman from Dauphin.

The PRESIDENT. The Chair cannot see the applicability of the gentleman's remarks.

Mr. HOWARD. Well, if I am not speaking to the amendment, I am speaking upon the article, if you like. I understood that the delegate from Philadelphia (Mr. Woodward) made a speech, but I could not hear a word of it. I always like to hear what he says, because, he always speaks sense, even if I do not happen to agree with him; but in this instance I could not understand what the gentleman was talking about.

However, as this is assailed, a gentleman can say here what it ought to be. The question is whether a railroad is parallel or competing. About the parallel part I do not care much, because that is a fact that is so apparent that it may not be necessary to decide it. Gentlemen might, however, raise the question, and might say that it was a parallel line in some points, and not parallel in some others. But whether it is a competing line or not is a question of fact. It is properly the province of a jury to determine such a question.

Now, sir, why did we use the words "common law" in the first place? We used them so that the power of railroads should not get what are called "railroad juries," juries consisting of three or five or seven men. We wanted a good old common law jury, of twelve men to say whether it was a parallel or competing line. That is what we want; and when we say now that the question is to be tried by a jury in open court, as all other civil causes are tried, it will be so plain that no judge can construe it away. It is necessary here to protect the people of this Commonwealth, and I hope that section will stand as it is now upon the Clerk's desk. I think it is perfectly right. It is perfectly proper. It is necessary.

What has been done in this State? Why, one great corporation has gone on gobbling up railroad upon railroad until all the roads that lead to the west and to the south are directed under the control of this single corporation, with the exception of the single avenue that leads from Pittsburg southward. That is the

Connellsville railroad that leads to the city of Baltimore. It also has its branches west and they are building or preparing to extend their lines to the west, so that it will open a competition that will be in favor of Philadelphia, because Philadelphia is now only a way-station of the Pennsylvania railroad company. Their point is the city of New York. There is no doubt about it, and it will not be long until the people of Philadelphia will groan as hard as the citizens of Pittsburg have had to do. New York is just about one hundred miles further east, and that is to be made one of the great termini of this great enterprise.

But, Mr. President, this is a very important section. It is important to Philadelphia because it will not be twenty years before there will be a line parallel to the Pennsylvania railroad, leading from the city of Pittsburg to the city of Philadelphia. It will not only be a parallel line but it will be a line in direct competition, because the men who own the coal beds of western Pennsylvania cannot afford to be excluded from the seaboard by the Pennsylvania railroad company. They cannot afford it, and they are not going to. We expect to stand it for the present, and I am afraid the way this fourth section will finally pass this body, we shall be compelled in this State to submit to this condition of affairs for years to come. There will be a remedy, and the only remedy is that this Pennsylvania railroad company shall not be allowed to gobble up a competing or parallel line if we are able to build one. We must have another parallel line from the city of Pittsburg to the city of Philadelphia, and I hope we shall; and then I hope that when we complete it we shall be able to put it in such a position that the Pennsylvania railroad company cannot buy up its stock or put an officer upon its board or control it in any manner whatever, but that it will remain for all time independent.

The PRESIDENT. The delegate from Allegheny will recollect that when we come to discuss the article he has exhausted his ten minutes. [Laughter.]

Mr. D. N. WHITE. I move that the entire article, with all the amendments to it, be printed and laid upon the tables of members to-morrow morning.

The motion was rejected.

Mr. BUCKALEW. I desire to offer an amendment to this section before we adjourn. I move that the Convention go

into committee of the whole for the purpose of striking out in the seventh line of the fifth section all after the word "line" and inserting, "and the question of such competition shall, when demanded by the party complainant, be tried by a jury."

Two words will explain the amendment. In the first place trial by jury is defined in the Constitution; "Trial by jury shall be as heretofore." Of course that is so, whether it is at common law or any other way. In the next place this makes provision for the removal of officers as well as being a prohibition against companies consolidating with other companies. Now, it is necessary for a court to act upon bills in equity, and the court may be ready to remove an officer who violates the provisions of this section, and if my amendment be adopted, then the section will be so drawn that if the party complainant does not desire the delay of a jury trial the court itself may act upon the subject.

On the question of agreeing to the motion proposed by Mr. Buckalew, a division was called for, which resulted forty in the affirmative and twenty-one in the negative.

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

The CHAIRMAN. The committee of the whole have had referred to it the amendment offered by the gentleman from Columbia. The amendment is made in accordance with instructions of the Convention, and the committee of the whole will rise.

The committee of the whole rose, and the President having resumed the chair, the Chairman of the committee of the whole (Mr. Landis) reported that the amendment had been inserted.

Mr. MACVEAGH. I would like to ask unanimous consent to make that amendment read "either party" instead of the "party complainant."

Mr. BUCKALEW. Certainly not.

Mr. MACVEAGH. Why not? Ought not either party to have a jury trial if he wants it?

Mr. BOYD. I call for the orders of the day.

The PRESIDENT. The hour of three o'clock having arrived, this Convention stands adjourned until to-morrow morning at half past nine o'clock.

ONE HUNDRED AND SEVENTY-FIRST DAY.

THURSDAY, October 23, 1873.

The Convention met at half-past nine o'clock A. M., Hon. John H. Walker, President, in the Chair.

Prayer by Rev. J. W. Curry.

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

EDUCATION, &C.

Mr. STANTON. Mr. President: I have in my hand a communication from Mr. E. C. Wines to George L. Harrison, Esq., on the subject of the memorial of the latter heretofore submitted to this body, which I desire to have published in the Debates, as the memorial to which it refers has been ordered to be so printed.

No objection was made.

The communication is as follows:

OFFICE NATIONAL PRISON ASS., }
320 Broadway, New York, }
October 20, 1873. }

"My dear Mr. HARRISON:

I thank you most sincerely for the copy of your excellent memorial in behalf of "neglected and destitute children," lately submitted to the Constitutional Convention of Pennsylvania, which you were kind enough to send me. I cannot but hope that an argument so cogent, so thoroughly unanswerable indeed, as your papers embody, will have its effects upon so enlightened a body as that to which it is addressed. It is only to-day that I received a letter from Mr. E. Carleton Tufnell, inspector of the pauper schools of England, in which he speaks of the excellent fruits of these institutions. Among other things, he says: "There are in the pauper schools of London alone eight thousand children, all of the lowest class, who, under the system now pursued, are not only saved from a life of vice and crime, but turn out among the most valuable and productive members of society. These schools are [all strictly industrial, on the half time system, and are under the supervision of the local government board."

To me it seems the most natural thing in the world that your [Constitutional Convention should not only encourage

but welcome the co-operation, and especially the initiative, of private benevolence, in the work of removing from the body politic the terrible plague-spot which you have so clearly and forcibly called to its notice, and recommended to its consideration. If the Convention fail to take the action suggested by you, or some action equivalent, such failure can, it appears to me, be attributed only to a want of a thorough grasp and comprehension of the question. It is really a question of the healthy and vigorous action if not indeed, in the end, of the very existence of republican institutions. The instinct of self-preservation, it would seem, should lead the Convention in the direction indicated by your memorial.

May God help you in this work is the wish and prayer of

Yours truly and faithfully.

E. C. WINES.

ARTICLE ON TAXATION AND REVENUE.

Mr. BROOMALL. I offer the following resolution:

Resolved, That the Committee on Revision and Adjustment be directed to strike out of the first section of the article on taxation and revenue the words, "except from the special assessments herein provided for," the same having been rendered useless and unmeaning by the failure of the section to which they referred.

The resolution was ordered to a second reading, and was read the second time.

Mr. BROOMALL. The reading of the resolution explains it. It is not necessary to say anything about it.

Mr. BUCKALEW. There is no question as to the matter of fact. Those words have reference to nothing whatever in that article now.

Mr. BROOMALL. No; and they should be stricken out.

The resolution was adopted.

Mr. HOWARD. Was that amendment made as proposed by the delegate from Delaware?

The PRESIDENT. It was.

Mr. HOWARD. By unanimous consent? voted against it and I voted pretty loud,

too, for I do not like that way of doing business. It may be all right, but I do not understand it.

The PRESIDENT. It was agreed to.

Mr. HOWARD. It was not by unanimous—

The PRESIDENT. It was not necessary to have unanimous consent. It was a resolution offered by the delegate from Delaware. The delegate voted "no" on the adoption of the resolution, but the resolution was adopted.

THE SCHEDULE.

Mr. D. W. PATTERSON. I am instructed by the Committee on Schedule to make a report.

The report was read, as follows, and laid on the table:

SCHEDULE.

That no inconvenience may arise from the changes in the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared, that:

SECTION 1. This Constitution or such article or articles thereof as shall receive a majority of the votes of electors of this Commonwealth, shall take effect and go into operation immediately upon the proclamation of the Governor declaring the same to have received a majority of the votes of said electors.

SECTION 2. All laws in force in this Commonwealth at the time of the adoption of this Constitution, or any part thereof not inconsistent therewith, and all rights, actions, prosecutions and contracts shall continue and remain in force and effect until altered or repealed by the General Assembly.

SECTION 3. That all fines, taxes, penalties and forfeitures due and owing to the Commonwealth under the present Constitution and laws, shall inure to the said Commonwealth under this Constitution.

SECTION 4. Recognizances, bonds, obligations and all other instruments entered into or executed before the adoption of this Constitution to the Commonwealth of Pennsylvania, to any State or county officer or public body, shall remain binding and valid, and rights and liabilities upon the same shall continue.

SENATORS AND REPRESENTATIVES.

SECTION 5. Senators and Representatives, under this Constitution, shall be elected as follows:

The General Assembly shall divide the Commonwealth into fifty senatorial districts, numbered consecutively. Senators from even numbered districts shall be elected in the year 1875 for two years, and Senators from odd numbered districts in the year 1875 for four years.

SECTION 6. Senators and Representatives elected in the year 1874 shall serve for one year; and thereafter Representatives shall be elected for two years, and all unexpired senatorial terms shall terminate on the first day of December, 1875.

SECTION 7. The first election of Governor and Lieutenant Governor, under this Constitution, shall be in the year 1875.

SECTION 8. Nothing contained in this Constitution shall be construed to render the Governor and Auditor General, now filling those offices, ineligible for election to the same respectively at the first election under this Constitution.

JUDICIARY.

SECTION 9. The judges of the Supreme Court who shall be in office when this Constitution shall take effect, shall continue until their commissions shall severally expire. Two judges, in addition to the number now composing the said court shall be elected at the first general election after the adoption of this Constitution, whose term of office shall begin on the first Monday of January next succeeding their election.

SECTION 10. All courts of record and all existing courts which are not in this Constitution specifically enumerated, and not inconsistent therewith, shall continue in existence and exercise their present jurisdiction, until otherwise provided by law.

SECTION 11. The register's courts now in existence shall be abolished on the first day of January next succeeding the adoption of this Constitution.

SECTION 12. The Legislature shall, at the next session after the adoption of this Constitution, designate the several judicial districts provided for under this Constitution, and the number of judges learned in the law, who shall be at the then succeeding general election elected in such several districts, and the judges at present in commission shall continue during their unexpired terms judges of the new districts in which they reside.

SECTION 13. The Legislature shall at the next succeeding session after each decennial census, and not oftener, designate the several judicial districts provided for under this Constitution.

SECTION 14. Judges learned in the law of any court of record in this Commonwealth holding commissions in force at the adoption of this Constitution, shall hold their respective offices until the expiration of the terms for which they were elected and commissioned. The office of associate judge, not learned in the law, is abolished, excepting in counties not forming separate districts, but such associate judges in office when this Constitution shall be adopted shall serve for their unexpired terms.

COURTS OF PHILADELPHIA AND ALLEGHENY.

SECTION 15. The courts of common pleas in the county of Philadelphia, and in the county of Allegheny, shall be composed of the present judges of the district court and court of common pleas of said counties until their commissions shall severally expire, and of such other judges as may from time to time be selected.

For the purpose of first organization in Philadelphia, the judges of the court number one, shall be Judges Allison, Pierce and Paxson; of the court number two, Judges Hare, Lynd and Mitchell; of the court number three, Judges Ludlow, Finletter, and one other judge to be elected; and of the court number four, Judges Thayer, Briggs, and one other judge to be elected.

The judge first named shall be the president judge of said courts, respectively, and thereafter the president judge shall be the judge oldest in commission.

The additional judge for courts numbers three and four shall be elected at the first general election after the adoption of this Constitution, and their term of office shall commence on the first Monday of January, 1875.

SECTION 16. In the court of Allegheny, for the purpose of first organization, the judges of the court number one, shall be the judges of the court of common pleas as organized at the time of the adoption of this Constitution; and the judges of the court number two shall be the judges of the district court, as organized at the time of the adoption of this Constitution.

The president judge of the common pleas and district court shall be president judge of said courts number one and two, respectively, until their commissions shall expire; and thereafter the judge oldest in commission shall be president judge.

SECTION 17. The organization of the court of common pleas for the counties of Philadelphia and Allegheny shall take effect on the first Monday of January, 1875.

SECTION 18. The causes and proceedings pending in the court of *nisi prius*, common pleas and district court in Philadelphia, shall be tried and disposed of in the court of common pleas.

The records and dockets of said courts shall be transferred to the prothonotary's office of said county.

SECTION 19. The causes and proceedings pending in the court of common pleas in the county of Allegheny shall be tried and disposed of in the court number one; and the causes and proceedings pending in the district court shall be tried and disposed of in the court number two.

SECTION 20. The prothonotary of the court of common pleas of Philadelphia shall be first appointed by the judges of said court, on the first Monday of December, 1875, and the present prothonotary of the district court in said county shall be the prothonotary of the said court of common pleas until said date, when his commission shall expire.

ALDERMEN.

SECTION 21. In cities containing over fifty thousand inhabitants, all aldermen in office at the time of the adoption of this Constitution shall continue in office until the first Monday of April, 1875; at the election for city and ward officers, except Philadelphia, in that year one alderman shall be elected in each ward as provided in this Constitution.

SECTION 22. In Philadelphia "magistrates," in lieu of aldermen, to be elected under this Constitution, shall be chosen at the election in said city for city and ward officers in the year 1875; their term of office shall commence on the first Monday of April succeeding their election.

The term of office of aldermen in said city, holding commissions at the time of the adoption of this Constitution, shall not be affected hereby.

SECTION 23. All persons in office in this Commonwealth at the time of the adoption of this Constitution, or any part thereof, shall continue and hold their respective offices until the term for which they have been elected or appointed shall expire, unless otherwise provided in this Constitution, or necessary to carry into effect its provisions.

SECTION 24. County commissioners and county auditors shall be elected under this Constitution at the general election in the year 1875, and such officers in office at the time of the adoption of this Constitution shall continue until their successors are duly qualified, at which period the terms of those in office shall expire.

SECTION 25. The "Secretary of Internal Affairs" shall be elected at the first general election after the adoption of this Constitution, and when the said officer is duly elected and qualified, the office of Surveyor General shall be abolished, and the Surveyor General in office at the time of the adoption of this Constitution shall continue in office until his said present office shall be abolished, and no longer.

SECTION 26. Whenever the "Superintendent of Public Instruction" shall be duly qualified, then the office of Superintendent of Common Schools shall cease and terminate.

SECTION 27. All judicial, State and county officers in this Commonwealth, in office at the time of the first election of their successors under this Constitution, shall continue in office until their successors are duly elected and qualified, unless otherwise provided in this Constitution.

SECTION 28. All city, ward, borough and township officers, at the time of the adoption of this Constitution, and at the first election under it, shall continue in office until their successors shall be duly elected and qualified, unless inconsistent with this Constitution.

SECTION 29. All State, county, city, ward, borough and township officers in office at the time of the adoption of this Constitution, whose compensation is provided for by fees, and not by salaries, shall continue to receive the fees allowed them by law, until the expiration of their respective terms of office.

SECTION 30. All State and judicial officers heretofore sworn, and whose terms shall extend to the date at which this Constitution shall be adopted, shall severally, within one month after such adoption, take and subscribe an oath, (or affirmation,) to support of this Constitution, and all other officers within the State shall be firmly bound by its provision.

SECTION 31. The General Assembly at its first session, or as soon as may be after the adoption of this Constitution, or any part thereof, shall pass such laws as may

be necessary to carry the same into full force and effect.

SECTION 32. After the adoption of this Constitution, no municipal or other corporation whatever shall, by virtue of its charter or the laws heretofore passed, possess or exercise any power repugnant to the provisions of this Constitution.

RAILROADS AND CANALS.

The PRESIDENT. The next business in order is the consideration of article number seventeen. Is it the pleasure of the House to proceed to the consideration of the article. ["Aye." "Aye."] The Chair hears no objection, and the article is before the Convention. When the Convention adjourned last evening section five was under consideration, and the section will now be read.

The CLERK read as follows:

SECTION 5. No railroad, canal or other corporation, nor the lessees, purchasers or managers of any railroad or canal corporation, shall consolidate the stock, property or franchises of such corporation with, nor lease, purchase, or in any way control any other railroad or canal corporation owning or having under its control a parallel or competing line, nor shall any of the officers of such railroad or canal corporation act as an officer of any other railroad or canal corporation owning or having the control of a parallel or competing line; and the question of such competition shall, when demanded by the party complainant, be tried by jury.

Mr. BROOMALL. Is that section open for amendment.

The PRESIDENT. It is open for consideration at this time.

Mr. BROOMALL. No proposition is before the body at this time?

The PRESIDENT. No, sir.

Mr. BUCKALEW. I move to go into committee of the whole for the purpose of inserting in place of the fifth section the first branch of the fifth section of the report of the special committee:

"No railroad company shall, either directly or indirectly, consolidate with or hold a controlling interest in the stock or bonds of any other railroad company."

This, as it will be seen, changes the word "corporation" to "company." My reason for offering it is this: Both the report of the select committee and the report of the Committee on Railroads and Canals contain provisions that will be difficult to construe and that will require the intervention of the courts. If there

is no practical objection to having the prohibition absolute, it would be much better to make it absolute, and then everybody will know what is the constitutional law on the subject. The section to which this is offered will prevent the companies from having a controlling interest in, or consolidating with companies owning parallel or competing railroads. It leaves the question of parallelism and competition to be settled by a court and jury, &c., making all the time doubt, difficulty and litigation. In my section of the State I do not see any necessity for allowing a railroad to consolidate with any other railroad; but it certainly would remedy a great many of the difficulties if the prohibition was absolute; and if, in other parts of the State, there is no objection to making it absolute, if no inconvenience would arise, I think it would be better to make it absolute.

Mr. CUYLER. Following the line of the argument of the gentleman from Delaware, I desire to ask him if it would not be better to condense into the Constitution an article in three lines, providing that "no railroad company shall consolidate with or control or own the stock and bonds of any other railroad company." The argument, as I understand it, is how we can prevent railroad companies from consolidating their lines with roads that are parallel or competing, and what an easy solution of the whole difficulty it would be to provide that they shall not have any consolidation or any control or any interest in the stock and bonds of other corporations.

That is what the argument comes to. Let us see how it works in practice. I ask gentlemen in this Convention where the State of Pennsylvania would now be if the preposterous provision which is now suggested had been written in the Constitution of Pennsylvania five and twenty years ago? The railroad system of this country is what it is to-day because it is a wise expression of the wants and necessities of the people; because it has been let alone by the politicians; because it has not been developed by law, but has grown up as the demands of the business of the country required. It is because the law has followed and not run in advance of the necessities of the country in this respect.

The whole voice of the business community for years has cried for and achieved those very things which these

amendments are seeking to destroy. We have been providing in successive years, as the demands of the trade and commerce of the country have shown the necessity, for consolidation, for extension and for the absorption of the stock and the bonds of other roads. That has been the yearning of the business community, and that has been the expression of the law following that necessity and demand of the business community. Railroads have developed this State, so that in five and twenty years its wealth has grown, as is shown in the Auditor General's reports, from seven hundred million to thirty-five hundred million of dollars in consequence of them; and three-fourths of this development has taken place from the aid extended by existing roads in other roads which the necessities of the people demanded. And yet, now we seek to shut the door and close our eyes against that which experience has taught us to be the sound policy of the State. The proposition seems to me to be simply monstrous. Moreover, it will be utterly ineffectual, and just so long as the Convention legislates against the policy of the State and against the demands of the people of the State, just so long will it actually be a dead letter.

You will not escape the difficulty by providing that roads shall not own the stock and bonds of other roads. The capitalists who own these railroads will themselves purchase and control the stock and bonds of parallel and competing lines, and no legislation can ever prevent them from doing it. True, the stock and bonds will not stand as they do now, in the name of existing corporations, but they will stand in the names of the capitalists who own these corporations, and they will work out these results in the future as they have been worked out in the past. We might as well bury our Constitution in mid-ocean as to attempt to erect anything in this manner and expect that it is going to have any impression upon the policy of the State.

Mr. COCHRAN. The amendment which is offered here at this time to this fifth section, is one which has been on more than one occasion rejected by this Convention. Now, sir, I was myself, as I am supposed to be the greatest radical in this House on this subject, in favor of this sweeping proposition. Time and again I offered it, and time and again I was plumply and squarely defeated on it, and this Convention then appeared to me to

settle down on the proposition that they would prohibit this formation of alliances, if you please, or this consolidation between lines which are parallel or competing, and they would not allow it to extend so as to embrace all the railroad companies in the State in the prohibition. Now, this amendment is not in accordance with that decision of the Convention, as it stands in the language of this fourth section. It is carrying it beyond what I understand to be the declared will and purpose of the Convention in this particular matter of policy. I am not willing to accept now, in lieu of this section, whatever my private views are, the amendment which is now proposed, for the reason that I stated, that it is not in accordance with the views declared by the Convention itself.

I do not wish to imperil this principle contained in the section by adding a more sweeping thing which may destroy the whole work. The effect of this amendment if adopted will be to defeat every provision of this article. I am prepared to and will vote for any independent section, if any person offers it, for I shall not do it myself, which will make a prohibition of this kind in the broad and sweeping terms which were heretofore proposed. But now, standing as we do this morning, on the ground which we occupy—the ground which was taken and established by the Convention itself on this question—I think we should not permit the section to be stricken out, and the proposition of the gentleman from Delaware inserted in its stead. We must come to an end on this subject sometime and somewhere.

Mr. BAER. I want to say a word on the proposition that to me looks like arraying the whole interior portion of the State against this entire article. The gentleman from Philadelphia (Mr. Cuyler) has well said that if we incorporate into the Constitution this principle we shall put an end to the making of railroads throughout the State, and forever prevent the development of the interior. This question was very fully and very thoroughly discussed before, so much so that I hope the friends of the measure will now vote this proposition down. I appeal to the gentleman from Delaware to look at the question as it must affect the entire interior of the State that remains undeveloped to-day. If you prevent a large road from consolidating a short one with it, you make it absolutely necessary that a

short road eight or ten miles shall be operated independently, which may entail such an enormous expense as to make it almost death to the small corporation; while the main line may consolidate it and operate it advantageously to both companies and to all the people. I admit that the uniting and consolidating of competing lines should be prevented, but in no case will I consent to vote against the consolidation of a large road with a small one that, as I have said more than once on this floor, may run at right angles to it.

I do not wish to intimate that the gentleman from Delaware aimed to strike a blow at the entire article so as to make it obnoxious to the people and induce them to vote it down. I do not think that is his object at all. If it is not, then I trust he will withdraw the amendment now, because it will have the effect of arraighing the people against the article, for the people will never agree to vote for an article that restricts railroads and prevents development to the extent called for in the amendment and which proposes that people in certain localities shall be tied up forever. I trust that such a monstrous proposition as this, submitted at this late day, will never be incorporated into the Constitution.

Mr. BROOMALL. I desire to withdraw the amendment for the purpose of modifying it. Now, I offer instead of the section the entire fifth section of the report of the special committee. I ask that it be read.

The CLERK read as follows:

"No railroad company shall, directly or indirectly, consolidate with or hold a controlling interest in the stock or bonds of any other railroad corporation owning, operating, or controlling a competing line of railroad; and the question of such competition shall, when demanded by the party complainant, be tried by a jury."

Mr. BROOMALL. I will say that the gentleman from Somerset is right when he assumes that I am not opposed to the railroad article. I can see no objection to the prohibition as I first offered it. It would be desirable, if there were no objection to it, in other sections of the State. It seems there are such objections. Therefore I modify it to suit those objections.

The question now is simply between section five of the Railroad Committee and section five of the select committee. I have offered that conceiving it to mean precisely the same thing, except that the

words, "directly or indirectly" cover rather more ground than the words, "nor the lessees, purchasers or managers," &c., which may not embrace all the modes by which indirectly this evil may be perpetrated.

I also offer it for the purpose of simplifying the section and making it shorter, always believing that the shorter a section is the less liable it is to be misconstrued and misunderstood, supposing that it contains the whole idea. I trust the Convention will see that in the same light.

Mr. HAY. I desire, in order to obtain information to guide my own vote in this matter, to inquire of the gentleman from Delaware, who was one of the members of the select committee, why the prohibition against officers of competing roads acting as officers of other roads, was omitted by that committee?

Mr. BROOMALL. When you have inserted the "directly or indirectly" with respect to the control, you have covered the whole ground. There is nothing in prohibiting the officers of one from being the officers of another, because it is so easy to evade it that it amounts to nothing; it does us no good. Preventing the direct or indirect control in any way covers really the whole ground desired to be covered by that section, and it is less liable to objection.

Mr. HOWARD. Mr. President: I should like to make one remark before I proceed to reply to the delegate from Delaware.

It is in reply to the delegate from Philadelphia, (Mr. Cuyler,) who seems to think that this railroad article, in some way, is striking at the railroad system. He says the railroad system is what it is to-day because it is in accordance with the wants of the people. Now, that delegate certainly cannot believe that we mean to strike at the railroad system, or to deny that railways are in accordance with the wants of the people. All we complain of is the management of this system, the abuse of the system. We want some reform in the management. That is the whole case and that is the reply to the delegate from Philadelphia.

In regard to the proposition of the delegate from Delaware, he says that the fifth section reported by the committee of seven, which he offers as a substitute, contains in a consolidated form all that there is in section five reported by the Railroad Committee. I say plainly and squarely that that delegate is mistaken; that it does not contain it by a long shot. It does

not cover it at all. It does not meet, in any way, section five, reported by the Railroad Committee.

Mr. President, the people of Pennsylvania, outside of the inner circle in railroad management, have come to the deliberate conclusion that it is bad policy to allow a consolidation, or to allow the leasing or the buying of parallel or competing lines of railroad by other railroads; in other words, that it is the true policy of the State to break down monopoly and to restore the true principle of competition, believing that competition is not only the life of trade, but is the great regulator of it. Now, sir, what is this fifth section, reported by the committee of seven, that is offered here as a substitute for section five of the original report? It is simply this: "No railroad company shall, directly or indirectly, consolidate with or hold a controlling interest in the stock or bonds of any other railroad corporation." That is all the prohibition there is in that section, namely, that they shall not hold a controlling interest in the stock or a controlling interest in the bonds of a parallel or competing line; but, sir, they may lease it; they may buy it body and breeches; and yet the delegate from Delaware says that his substitute covers section five as reported by the Railroad Committee. Covers it, forsooth! Yes, sir, it covers it in about the way that the other sections offered here in the place of the work of the committee were intended to cover it; that is, to supply something that would come just as near a good dollar as a counterfeit ever did come to a good dollar.

Mr. CUYLER. I hope the delegate will speak louder or more distinctly. We lose, on this side, everything that he says.

Mr. HOWARD. I am sorry I cannot speak louder. I always knew that I had a very weak voice.

Mr. CUYLER. It is our misfortune that the gentleman is not speaking as distinctly as we could desire. We would be much gratified to hear him.

Mr. HOWARD. Perhaps it is owing to the noise made by other delegates in the Hall, who are all violating the rule that they shall not talk among themselves while another delegate is speaking. I have generally made it my business to try and listen when others are speaking, because I want to understand how to make a Constitution, and I find I do bet-

ter by listening to others when they are addressing the body.

Now, Mr. President, I repeat, if the delegate from Delaware thinks section five of the substitute covers section five of the original report, he is mistaken; it does not cover it at all. I cannot comprehend how a delegate of his intelligence could have supposed for a moment that it does cover that section. Sir, if the people of Pennsylvania demand that anything shall be incorporated into this Constitution, it is that railroads now organized and in existence shall not be permitted in the future to lease, or buy, or control lines that are parallel and competing. They want the benefit of competition. This amendment would destroy that. It offers us something, and nothing for the real substance which the Committee on Railroads had prepared for the relief of the people in this respect.

We know perfectly well that some of the railroads in Pennsylvania have gone on consolidating until there is very little competition in the Commonwealth. Heretofore there has been no law to prevent them doing this. The people have said: "This is wrong; we are losing all the benefit of competition; this thing is growing to be a great and monstrous monopoly;" and yet it has been allowed to go on. I do not want to strike down any of their rights, nor any right that they have acquired. I know perfectly well that although we have suffered many evils and many inconveniences from these corporations, yet we have also derived great benefits. But, Mr. President, because we have derived benefits, that is no reason why we should not derive more. The people are entitled to all the benefit that they can obtain consistent with a fair return to the stockholders for their investment, and if by any adjustment of the public law we can compel these companies to do better by the public and yet commit no wrong against them, we are asserting a principle of right in doing it. I hope the Convention will adhere to the section as reported by the Railroad Committee. That was intended to prevent the leasing, to prevent the consolidating and to prevent the purchasing of competing lines. I repeat again that the amendment allows the leasing, and it allows the purchasing of competing lines; in other words, it amounts to nothing at all. It offers us nothing to prevent the continuance of this evil, and I hope it will be voted down.

Mr. HARRY WHITE. If I understand it, the amendment offered by the delegate from Delaware is to this effect: "No railroad company shall directly or indirectly consolidate with or hold a controlling interest in the stock or bonds of any other railroad corporation."

The PRESIDENT. The delegate has now offered the whole section as reported by the committee of seven in place of the original section.

Mr. HARRY WHITE. I merely wanted to understand the shape of the amendment.

These are questions to be settled by courts and juries, and are gentlemen afraid that the courts, as now constituted, will not settle these questions, as they do all others, properly? Is there any necessity for changing the constitution of our courts by putting into this section anything which by implication shall be made to mean that any of the known powers of the court and jury shall be taken away for special purposes? Will it not be enough to make the rights and interests of parties thus litigant to be settled according to the course of the common law, as all other rights and interests of this people are settled?

Mr. COCHRAN. I interpose here only for a moment, to say that I hope this substitution will not be made. The object in considering the fifth section of the report of the committee was to make it distinct and specific; to make it inclusive of all the parties by whose action the purpose and policy of the section might be defeated. Now, sir, I hope we shall not depart from particulars and deal in generalities. This is a matter which, if it is to be of any use at all, must be specific and particular. I hope, therefore, that we shall abide by the section which has twice passed under review in this body.

The PRESIDENT. The question is on the motion of the delegate from Delaware (Mr. Broomall.)

Mr. CUYLER. On that question I call for the yeas and nays.

Mr. MACVEAGH. I second the call.

Mr. HARRY WHITE. Before the yeas and nays are called on this subject, I desire to interpose one word of objection to the adoption of the substitute offered by the gentleman from Delaware. I know the amendment of the delegate from Delaware will be a radical change in the direction of allowing railroad corporations to assist struggling infant railroad corporations.

Mr. President, the day was in the State of Pennsylvania when no corporation could hold any of the capital stock of another corporation; the day was in Pennsylvania when no corporation could hold real estate except when it was absolutely necessary to transact the business of the concern. That day has passed and gone. It is too late to make another departure in that direction; and, Mr. President, if there is any one thing above another that the new part of this Commonwealth is interested in, it is in getting some assistance from the old corporations of this Commonwealth in constructing and completing new lines of railroad.

I know that the section of this State which I more immediately represent here is largely interested in this matter. Delegates will observe that while that portion of the report of the Committee on Railroads, which is sought to be stricken out by the delegate from Delaware, prevents any railroad from leasing, purchasing or controlling the management of another line which may be a competing line, yet it does not prohibit one railroad company from subscribing to the stock of another, or from endorsing or guaranteeing its bonds, and as the ultimate result probably owning a controlling interest in the stock if it shall be necessary.

Now, we want some provision of that kind. We do not want the restrictive rule indicated and advocated by the delegate from Delaware. He lives in an old and well developed section of this Commonwealth; he does not know the necessities of the new and undeveloped parts of Pennsylvania; and if you put in this section which he seeks to have adopted as a substitute for the original section, you will bind with bands of iron the enterprising disposition of some of the old corporations which have been of incalculable assistance in developing some parts of the Commonwealth.

I hope the amendment offered by the delegate from Delaware will not prevail, but that we shall adopt the original section.

Mr. CUYLER. Will the Chair be kind enough to state the question?

The PRESIDENT. The question is on the motion to go into committee of the whole for the purpose of striking out the fifth section of the article before the House, and inserting in lieu of it the fifth

section reported by the committee of seven.

The yeas and nays were taken and resulted as follow:

YEAS.

Messrs. Armstrong, Bowman, Brodhead, Broomall, Carey, Curry, Cuyler, Darlington, Davis, Dunning, Ellis, Green, Kaine, Knight, Lilly, M'Michael, Parsons, Runk, Stanton and Turrell—20.

NAYS.

Messrs. Achenbach, Ainey, Alricks, Andrews, Baer, Bally, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Bardaley, Barr, Beebe, Biddle, Black, Brown, Buckalew, Calvin, Campbell, Carter, Church, Cochran, Collins, Corson, Crommiller, Curtin, Dallas, De France, Dodd, Edwards, Elliott, Ewing, Fulton, Funck, Guthrie, Hall, Hanna, Harvey, Hay, Hazard, Hemphill, Horton, Howard, Hunsicker, Lambertson, Landis, Lawrence, MacConnell, MacVeagh, M'Clean, M'Curloch, M'Murray; Mann, Mantor, Minor, Mott, Newlin, Niles, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Purman, Purviance, John N., Purviance, Sam'l A., Reed, Andrew, Reynolds, Ross, Russell, Smith, Henry W., Smith, William H., Temple, Van Reed, White, David N., White, Harry, White, J. W. F., Woodward and Walker, *President*—76.

So the motion was not agreed to.

ABSENT—Messrs. Addicks, Barolay, Bartholomew, Bigler, Boyd, Bullitt, Cassidy, Clark, Corbett, Craig, Fell, Finney, Gibson, Gilpin, Heverin, Lear, Littleton, Long, M'Camant, Metzger, Mitchell, Palmer, H. W., Patton, Porter, Pughe, Read, John R., Rooke, Sharpe, Simpson, Smith, H. G., Stewart, Struthers, Wetherill, J. M., Wetherill, John Price, Wherry, Worrell and Wright—37.

Mr. ARMSTRONG. I move to go into committee of the whole for the purpose of amending section five by striking out all after the word "line," in the sixth line, and inserting the following:

"And any question of fact touching such competition shall, when demanded, by either party be tried by 'jury.'"

The section as it stands would submit to a jury the decision of a question of law. I suppose the intention of the Convention is that any question of fact shall be submitted to a jury, and that questions of law shall continue to be in the control

of the court. The whole purpose of this amendment is to exclude the possibility of making the jury judges of both the law and the fact.

Mr. EWING. I rise to a question of order. The portion of this section now proposed to be stricken out was yesterday inserted by a vote of the Convention, and as I understand the rules of order, it is not now competent to strike them out.

The PRESIDENT. The Chair is compelled to sustain the point of order. The recollection of the Chair is that yesterday the delegate from Columbia moved to change the section by inserting the precise words that the delegate from Lycoming now seeks to strike out.

Mr. ARMSTRONG. The words were in the original article, as I understand, but I submit it to the intelligence of this House. Let them meet the question fairly. It is intended that questions of law shall be submitted to a jury? If it is not why not express it in a way to exclude doubt?

Mr. HOWARD. I rise to a question of order. My point of order is that the only way to reach this is by a motion to reconsider.

The PRESIDENT. The Chair sustains the point of order.

Mr. ARMSTRONG. Then I move to reconsider. I do not want to be captious but I do want the Convention not to put doubtful matters of construction into the Constitution if it can be avoided. Surely, it is not the intention of the Convention to submit questions of law to a jury.

Mr. TEMPLE. I ask how the gentleman voted.

The PRESIDENT. The delegate from Lycoming moves to reconsider the vote by which these words were inserted yesterday, on the motion of the delegate from Columbia.

Mr. HOWARD. I object to that. I believe the delegate from Lycoming did not vote in the affirmative.

The PRESIDENT. Did the delegate vote in the affirmative?

Mr. ARMSTRONG. I do not know how I voted, for the reason that I did not know that the section had been charged in that particular.

The PRESIDENT. Unless the delegate voted in the affirmative he cannot move a reconsideration. The point of order is sustained.

Mr. ARMSTRONG. I will change my motion so as to bring it in order—

Mr. BUCKALEW. I ask that the amendment which I offered yesterday be read. I think the gentleman from Lycoming is mistaken in its construction. Nothing but the question of fact of the competing lines to be submitted to a jury.

Mr. BIDDLE. With the question of intention, which a jury must always pass upon.

The PRESIDENT. The delegate from Columbia offered an amendment yesterday, the exact words of which are in the reprint of the article laid on members desks this morning.

Mr. ARMSTRONG. I move to amend the fifth section by inserting after the word "of" in the sixth line, the words, "fact touching;" and also to strike out the word "the" and insert "either" before "party;" and strike out the word "complainant," so as to read:

"And questions of fact touching such competition shall, when demanded by either party, be tried by jury."

Mr. President, we have gone so far in the discussion of this question that the preponderance of power in this Convention is very apparent. They intend to insert into our fundamental law sections which I believe will be injurious in their tendency and embarrassing through every stage of the transporting business of the State. But I do not propose to enter upon that discussion. I believe this Convention does mean that the trial of these questions shall be according to the course of the common law; that questions of fact shall be tried by a jury, and questions of law determined by the court. If they mean that, then I think the amendment is right. If they mean to submit questions of law and fact to the mere arbitrament of a jury, then it should be voted down, and I shall submit insistence, because I cannot prevent it.

Mr. BIDDLE. Mr. President: I very much prefer the language as it is: The language now is: "And the question of such competition." That may be a mixed question, just as the guilt of a defendant in a criminal case, and I want to retain the forcible language of this section by which the jury is to pass upon the fact and the intention. I do not want by any introduction of phraseology to take away by indirection from the jury that which I conceive to be the very vitality of the section, to wit: the reality of the competition. Now, it may be as the gentleman from Columbia suggested, that we are discussing a difference that

really has no value; but if there be a difference, I am for retaining the original language, because that gives the jury the control over the whole question and takes by indirection nothing from them.

Mr. CUYLER. Mr. President: The words, "the question shall be determined," necessarily wrap up law and fact both. They can mean nothing else. If this Convention does mean directly that a railroad corporation is a malefactor in advance of a trial; that its rights are not to be determined as the rights of other citizens are; that a jury is to determine the law and the fact, then it has written this article precisely as it intends. But I warn gentlemen in this Convention that there is a tribunal to which they will be held responsible—the tribunal of public opinion; and if gentlemen in this Convention are willing to place themselves before the tribunal of public opinion as advocating the doctrine that the rights of railroad corporations as to law and as to fact are to be determined purely and solely by juries without the intervention of judges, as other citizens have it, let them meet it, for that is what it comes down to. It does mean just simply that, that the law and the fact, unlike any other proceeding known to the common law or known to the law of our State—the law and the fact both, as to the rights of a corporation, are to be determined purely and simply by the whims, by the caprices of a jury.

That is the meaning of the proposition as it stands. If gentlemen do not mean that, then the amendment of the gentleman from Lycoming is eminently proper; then the amendment of the gentleman from Lycoming places the railroad corporation before the law precisely as every other citizen stands there. But if the Convention think differently they have but to let the proposition stand as it was originally written.

Mr. CURTIN. It seems to be accepted by the learned lawyers on this floor, that in the language of the section of this article of the Constitution now under consideration, we change the nature of the trial by jury and the constitution of our courts, and on the other hand it seems to be received by other learned gentlemen that we should not change the course of the common law as applied to trials by jury, but should leave the courts as they are at present.

Mr. President, as our courts in Pennsylvania are constituted, and with the

character of the judges on the bench in the courts of original jurisdiction, and in the court of last resort, all the interests and differences of the people of this Commonwealth can be submitted with confidence that the courts will do what is right. What is a "parallel or competing line" is to be settled by the courts. It seems to be desired by some gentlemen on this floor that that question, which may be of mixed law and fact, shall be left entirely to a jury and that the fact that the trial is in a court before a judge learned in the law, is to be ignored. What in the name of Heaven is that for? What is the use in that? Is there such a change demanded in the organic law of this State as that in an article on railroads we shall change the organization of our courts and the manner of trial; or is it not enough that we put into this article that this question shall be tried according to the course of the common law, which means by court and jury, and as to what is fact and what is law will be left as it is in settling other rights and interests of the people before courts and juries.

I am in favor of leaving to courts and juries the settlement of this vexed question, for I doubt whether there is a gentleman on this floor, whether connected with railroads and understanding their operations or not, who can say distinctly what is a parallel or competing line of railroad. The gentleman from Allegheny seems to understand that question, and he says that as soon as this Constitution is adopted, it is his expectation that they will make an independent line from Pittsburg to the eastern border of the State, connecting the waters of the Ohio and Delaware, entirely independent of all railroad connections at present. I hope it will so occur, and yet I apprehend with the restraints that we throw around future railroad enterprises in this State, it may be some time before that parallel line will ever be made. I only refer to the fact that I presume another railroad from Pittsburg to Philadelphia would be a parallel line. If you tap the coal field of the Schuylkill region on the west by the Northern Central, it discharges cargo on the waters of the Chesapeake Bay, and you tap the same coal field on the east by the Reading railroad, discharging her cargoes on the waters of the Delaware, in Philadelphia; are they rival or competing lines? They receive the same tonnage, they contribute the same material in the affairs of humanity, and are they

competing lines, although separated entirely, sending their freights to different ports, approaching the seaboard by different waters?

Mr. J. W. F. WHITE. Mr. President: I see great difficulties that may arise if we adopt the section as contained in the present article or the amendment now before us. I have no objection to a section in the Constitution that will prohibit the consolidation of competing lines. I would prefer the following as the language of this section, and perhaps I may offer it if I can get a chance hereafter, and for reasons which I may explain again I would embrace telegraphs as well as railroad companies:

"No railroad or telegraph company shall consolidate with a competing company, nor shall it, directly or indirectly, acquire or exercise a controlling power over such competing line."

The objection I have to the amendment to the section before us is, that it requires that question to be settled by a jury; and I call the attention of members of the Convention, while we are incorporating such a section in our Constitution, to its practical workings. We have now a railroad from Philadelphia to Pittsburg. Suppose we had a competing line; and in all probability in the course of a year or two there will be a competing line between this city and Pittsburg by way of the Allegheny Valley railroad. Suppose those two roads were about to consolidate. If you have a constitutional provision prohibiting consolidation and requiring that question to be tried by a jury, what course must be pursued? Is it possible that in every county between this and Pittsburg a bill in equity may be filed to restrain those companies from consolidating, and that the question whether they are competing lines shall be submitted to a jury trial in every county between this and Pittsburg? Because such a bill might be filed in any county through which either road passes. The jury of one county might decide the question of competition against the companies, and the jury of another county might decide that they were not competing lines.

Then, again, suppose a bill should be filed in the Supreme Court of the State asking to restrain companies from consolidation. This section, if adopted, requires that the question whether they are competing roads must be submitted to a jury of twelve men. We, as a Constitutional Convention, will not leave that question

to the seven judges of the Supreme Court of our State; we take it from them and submit it to a jury of twelve men. On a bill in equity filed in the Supreme Court of our State, as the law now stands, upon a question of that kind, the court would take the evidence and pass upon the questions of fact and also the questions of law involved in the case, or they might order an issue to try disputed questions of fact by a jury. Now, the proposition is to take the *whole subject* from the court, because this section would take the whole question from the Supreme Court and submit it to a jury, and their verdict would be conclusive. How should those twelve men be selected? Would the Supreme Court direct an issue to be tried by a jury summoned before that court, or send an issue into one of the counties of the State, to be tried by the courts of common pleas?

I submit to the Convention that incorporating such a feature in our Constitution changes radically and fundamentally the long established principles of jurisprudence, and it takes a great important question of this character from the jurisdiction of the courts of the State, and submits it to a jury of twelve men. Are we prepared to say in our fundamental law that we will not trust such a question in accordance with the established forms and usages of law, to the courts of the State; not even to the Supreme Court of seven judges who will compose that court under this Constitution? We will not commit it to them; we will not let them settle it as all other questions are settled; but as the section stands now the question of competition must be submitted and decided by a jury—the whole question, fact and law and everything, and the Supreme Court, as a court, will have nothing under the Heavens to do with the question except to order the jury and register their verdict. I cannot vote for such a proposition. I favor striking out all that relates to a jury trial, and leaving the questions that may arise to be tried and decided by the courts and jury in the same manner as all other questions that come before the courts.

Mr. PURMAN. There are two questions here to be determined when there is an allegation made that a railroad is a parallel or competing line. I suppose no one pretends that the question whether two roads are parallel to each other is not a question of fact. That will not be doubted. Whether the two roads are compet-

ing is certainly a question of fact. That will not be doubted. Then the question of such competition which relates to the question of whether the two roads are parallel or whether the two roads are competing, is certainly a question of fact and not a question of law. The section as it stands certainly carries nothing to the jury but the questions of fact whether the two roads are parallel or whether they are competing, and as it stands now the purpose desired by my friend from Lycoming is accomplished. I agree with him that the jury ought to determine nothing but the facts, and the law should be laid down by the court.

Mr. HAZARD. I hope, sir, that the imputation that those who know the least ought to say the most may not apply in my case in rising to say a few words on this subject. Although I must confess that of the details of railroading I know but little, yet I do know a few things that the people expect to be attended to in this Convention.

Mr. President, have the great railroads been of advantage to the people in developing and vitalizing the grand resources of this great State? Has any great good from their construction accrued to the people? These questions must be answered by every candid man in the affirmative, and if so, then the capital invested to bring so many benefits to the door of every citizen should be protected, and all their proper franchises and privileges secured to them; and all contracts made with them should be kept inviolate.

Then comes the question: Have these corporations abused their privileges and oppressed the people, and are they likely to do so? I think they have and are likely to do so.

It has been done by opposing and obstructing competing lines. This was done in the case of the Conneville railroad, which was crippled and obstructed for years by proceedings in court and by extraordinary legislative enactments, until the road was nearly destroyed by delays and hindrances. It was done in the case of the Baltimore and Ohio road, which proposed to build a road down the Monongahela valley to Pittsburg.

It was done in another way. The Cumberland Valley railroad was becoming an important link in a competing road from the west to this city. Its stock was bought up by the Pennsylvania railroad, the old directors turned out, and it is run to-day

in the interest and under the control of the Pennsylvania railroad.

It was done by means of discriminating against individuals and in favor of other incorporations, namely, the Westmoreland coal company. I am informed the cars of this company have precedence over most other cars on the road.

It has been done by discriminating against the freights of citizens of this Commonwealth and in favor of freights of citizens of other western States. Although this company has obtained the land of citizens of this State, often without reasonable compensation, has obtained extraordinary rights, franchises, and privileges from the people of this State, yet they spurn these confiding people from the foot of the throne when they ask for reasonable redress of grievances, and continue to charge the people of this State more than the citizens of Ohio for the same services. It has been stated on this floor, and I have heard no denial, that manufacturers and merchants can ship goods from Pittsburg west to Crestline, where it meets a competing line, and then can ship east to Philadelphia, at a less cost than they can ship from Pittsburg to the same market. A keg of nails beyond Harrisburg pays twelve and a half cents more than from Harrisburg, where there is a competing line, although there is but a very few miles difference, not far enough to warrant such a difference.

It has also, been said that oppressive discriminations have been made as against private shippers of coal from the anthracite region and in favor of pet coal companies, consisting mostly of stockholders and officers of the railroad.

Now, if corporations can or do use such discriminations against our citizens, should there not be some wholesome, proper and intelligent reforms and restraints?

The report of the special committee, as I understand it, affords no such relief and I must vote against it.

All admit that there should be some restraint, and that the corporate powers should be exercised legitimately, and they seriously exhort us to leave these restraints and regulations to the Legislature. This is urged because the Legislature may make mistakes and blunders *ad libitum* and correct them at leisure, when the people will no longer suffer under them or when the wicked purpose for which they were passed has been accomplished; in regard to railroad legisla-

tion heretofore we have had reason to suspect some strange inspiration. The people lost \$7,000,000 tonnage tax at one time, and the Legislature is importuned every year to increase enormously the capital stock, which, when issued, absorbs all the money of the country, even down to the trust funds of widows and orphans. Is this money needed for the proper working of the road in this State? No, sir; but to purchase other competing roads and to keep down opposition.

It is against such abuses that we are seeking to make some provision. I cannot see them in the repeat of the special committee, so I must vote for the restoration of the article prepared after great deliberation by the committee of the whole.

Mr. J. N. PURVIANCE. I merely rise for the purpose of asking the gentleman from Lycoming to modify his motion so as to move to go into committee of the whole for the purpose of striking out all after the word "line," in the sixth line of the fifth section. Then the question as to whether they were competing lines or not, would take the ordinary course in courts of justice. It would be a fact to be determined by a jury under the direction and charge of the court, and I take it that that is all that is necessary. We provide in the Constitution "that no railroad, or canal, or other corporation, nor the lessees, purchasers, or managers, of any railroad corporation shall consolidate," &c.

The PRESIDENT. The delegate from Butler will observe that the delegate from Lycoming cannot modify his motion in that way, for the reason that those very words were voted in which the delegate now desires the delegate from Lycoming to modify his motion so as to strike out.

Mr. J. N. PURVIANCE. Would it be in order then to move to reconsider that vote? Because I think the sentiment of the Convention is that these words are wholly unnecessary. I move to reconsider the vote by which these words were inserted in the section.

The PRESIDENT. Does the delegate from Lycoming withdraw his motion in order to allow the motion to reconsider to be made?

Mr. ARMSTRONG. My own judgment would be that there is no sufficient reason for taking any question of law or fact, which can arise touching a railroad out of the ordinary course of judicial procedure.

Mr. J. N. PURVIANCE. That is exactly what I want.

Mr. ARMSTRONG. But inasmuch as the words had been voted in, it was not competent to make a motion to strike them out, and for that reason I proposed a modification of the words which would submit questions of fact to a jury and leave questions of law to the determination of the court; but if the gentleman proposes to make a motion to reconsider the vote by which that amendment was inserted, I will withdraw my motion for that purpose.

Mr. J. N. PURVIANCE. I do make that motion.

The PRESIDENT. Who seconds the motion?

Mr. STANTON. I do.

The PRESIDENT. Did you vote in the affirmative?

Mr. STANTON. I do not remember now how I voted upon it.

Mr. KANE. I second the motion. I voted in the affirmative.

The PRESIDENT. The motion of the delegate from Lycoming is withdrawn for the present, and a motion is now made by the delegate from Butler, seconded by the delegate from Fayette, to reconsider the vote of yesterday by which these words were inserted.

Mr. HOWARD. I move to postpone that question indefinitely.

The PRESIDENT. Is the delegate aware that that motion, if adopted, will carry with it the whole article?

Mr. HOWARD. If it does, then I withdraw it.

The PRESIDENT. The amendment adopted yesterday will be read.

The CLERK. Yesterday, on the suggestion of Mr. Buckalew, the words, "and the question whether railroads or canals are parallel or competing lines shall always be decided by a jury in a trial in open court as in other civil issues," were stricken out, and these words inserted: "And the question of such competition shall, when demanded by the party complainant, be tried by a jury."

The PRESIDENT. The motion now is to reconsider the vote by which that amendment was made.

Mr. BEEBE. I rise to ask a question. If this is reconsidered for the purpose of striking out this amendment, does it then restore the original section as it was, or does that portion of the original section for which this is a substitute fall?

The PRESIDENT. It will depend on the action of the Convention. The matter will then be before the Convention again. The question is on the motion to reconsider.

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

Mr. KNIGHT. I second the call.

The yeas and nays were taken and resulted as follows:

YEAS.

Messrs. Ainey, Alricks, Armstrong, Baily, (Perry,) Baker, Bannan, Barr, Bigler, Black, Bowman, Boyd, Brodhead, Broomall, Brown, Carey, Carter, Cassidy, Corson, Cronmiller, Curry, Curtin, Cuyler, Darlington, Davis, Dunning, Edwards, Ellis, Fulton, Green, Hall, Hanna, Horton, Howard, Hunsicker, Kaine, Knight, Lamberton, Lilly, M'Camant, M'Clean, M'Michael, Minor, Niles, Parsons, Patterson, T. H. B., Pughe, Purviance, John N., Read, John R., Reed, Andrew, Rooke, Runk, Smith, William H., Stanton, Van Reed, Wetherill, J. M., White, David N., White, J. W. F., Woodward, Wright and Walker, *President*—60.

NAYS.

Messrs. Andrews, Bailey, (Huntingdon,) Bardsley, Beebe, Biddle, Buckalew, Calvin, Campbell, Church, Cochran, Collins, De France, Dodd, Ewing, Funck, Gilpin, Guthrie, Harvey, Hazzard, Hemp-hill, Landis, Lawrence, MacConnell, MacVeagh, M'Culloch, M'Murray, Mann, Mantor, Mott, Newlin, Palmer, G. W., Patterson, D. W., Purman, Purviance, Sam'l A., Reynolds, Ross, Russell, Smith, Henry W. and Turrell—39.

So the motion to reconsider was agreed to.

ABSENT.—Messrs. Achenbach, Ad-dicks, Baer, Barclay, Bartholomew, Bul-litt, Clark, Corbett, Craig, Dallas, Elliott, Fell, Finney, Gibson, Hay, Haverin, Lear, Littleton, Long, Metzger, Mitchell, Palmer, H. W., Patton, Porter, Sharpe, Simpson, Smith, H. G., Stewart, Struth-ers, Temple, Wetherill, John Price, Wherry, White, Harry, and Worrell—34.

The PRESIDENT. The question recurs on the amendment of the delegate from Columbia, (Mr. Buckalew,) which will be read.

The CLERK. The amendment is to insert in lieu of the last clause of section five, "and the question of such competi-

tion shall, when demanded by the party complainant, be tried by jury;" the words to be stricken out being, "and the question whether railroads or canals are parallel or competing lines shall always be decided by a jury in a trial in open court as in other civil issues."

Mr. BUCKALEW. I wish to state exactly what I meant by this amendment, and to state the question as it now stands. If any provision in regard to jury trial is to be contained in this section, I desire that it shall be in this form. For my own part, I do not care whether such a provision is in or not. I suspect it had better be left out. All I mean by my amendment is that if you are to provide a jury trial at all, this is the proper form which the provision should assume.

I do not think there is the slightest shade of difference between this amendment and the one proposed by the gentleman from Lycoming, except in one particular which has not been referred to. My amendment provides that this trial by jury shall be on the demand of the complainant, and that is necessary if you have a provision of this sort. Take a case under this section. The officers of the Pennsylvania railroad company or some of them, say, are elected to the board of managers of the North Pennsylvania railroad. Somebody comes into court with a petition or bill complaining that they are not eligible to be elected to the direction of the North Pennsylvania road because it is a competing line. Now, suppose the officers objected to claim a jury trial. They file their answer, denying that the North Pennsylvania road is a competing line, and under this provision as it stood originally, the court would be forced to send that issue to a jury for trial, say here in Philadelphia, where it would be heard at the end of two or three years with good luck, whereas the office of the directors expires in a year. What a farce!

So all over the State, the provision as it stood originally, allowing either party to demand a jury trial would nullify the whole section or secure substantially an avoidance of its provisions. If we are to have a section with jury trial in it which will work, we must confine the jury trial to cases of demand by the complaining party. The other party or parties cannot object. The hearing is had before the court. Nothing will be done except by a judgment of the court against them. Then a speedy review can be had in the

Supreme Court. But if gentlemen want to retain a jury trial for the party complainant, there may be cases when the delay will be an insuperable objection to demanding it. The party complainant ought not to be required to demand it or submit to it where he has a clear case, and where the opposite party has no actual defence. There the court should properly give immediate or summary relief.

That is what I want, a section that will effect its object. Well, sir, without any provision on the subject of jury trial here, this would be in almost every case a proceeding in equity, and the court could order an issue and a jury trial whenever there was reason for it. A chancellor has that power, and this power would reside in the courts in a case involving questions of disputed fact. Therefore I am willing that the section shall be perfected by striking out all that relates to jury trial; but if we are to have any jury trials and to have a section to work, we should have it in the form I proposed.

I cannot withdraw my amendment now in order to test the question on striking out this matter, and if my amendment is voted on now and rejected I cannot offer it again. So I am in a scrape. I hope the Convention will allow me to withdraw the amendment by common consent and let the question be taken on the other point. ["Aye." "Aye."]

The PRESIDENT. The delegate asks unanimous consent of the Convention to withdraw the proposed amendment. Does any gentleman object? ["No." "No."] No objection is made and the amendment is withdrawn.

Mr. DARLINGTON. The question to my understanding now is upon the section as it stands.

The PRESIDENT. On the article.

Mr. DARLINGTON. Then I move to go into committee of the whole for the purpose of striking out all after the word "line," in the sixth line of the amended print.

The PRESIDENT. The words proposed to be stricken out in the fifth section will be read.

The CLERK read the words as follows: "And the question whether railroads or canals are parallel or competing lines shall always be decided by a jury according to the course of the common law."

Mr. DARLINGTON. It will be perceived by the Convention that the effect of this

is to leave railroads under the control of the courts exactly as individuals are, and the same remedies may be applied as to them that are applied in individual cases. If it suits the views of the complaining party alleging that there is a competing line, he can go into equity to restrain them, or he may bring his action at common law if he is injured. What I mean is, that while I am unwilling to allow railroad companies any advantages over individuals, I would not allow individuals any advantages over railroads in courts of law or equity. Let their cases be decided like all cases between ordinary individuals or between individuals and corporations, however they may arise or wherever. Let them apply to whatever court has jurisdiction, and without compelling a jury trial unless a jury trial be necessary. This is the reason why I make the motion.

Mr. ARMSTRONG. We have been passing, Mr. President, for two days, through a phase of irritation and ill-feeling and ill-temper in this Convention, perhaps on both sides. I think it is greatly to be regretted; but I feel very confident that this has arisen out of no personal ill-will to any one, but out of the earnest feeling which necessarily associates itself with a question of so much magnitude.

Now, let us come to this question divested of all such feeling, and consider what is right and just as touching the interest of both the people and the companies. In the first place, I can see no reason for lifting this class of cases out of the ordinary course of judicial proceeding. There is nothing in the magnitude of the question, and nothing in the position of parties as related to the question, which justifies any doubt as to a fair judicial determination of any question that may arise. We know what the course of the common law is; we know when questions of fact are decided, whether as an issue ordered by a court of equity or an action at law tried by a jury as a common law action, what every step of the proceeding is, and we know the course of ultimate decision by appeal to the Supreme Court.

Now, I regard this section, which is intended to guard the people, as one which is capable of very great abuse against the people. Why shall we place it in the power of a corporation to obtain a verdict by any means, corrupt or otherwise, which shall determine those rights and place the decision beyond the power of

review? Persons have been in the habit of looking at the question as though it involved only a mode of reaching a corporation, in the interest of the people. Take it the other way, and imagine a case determined by a jury in favor of a railroad company, where is the power of review by the terms of this section?

The question whether a railroad or canal is a parallel or competing line is by this proposed constitutional provision to be submitted exclusively to a jury. If it be thus submitted as a constitutional right, where rests the power of review? Can the Supreme Court touch it? I say no. I say that when you have under the Constitution determined your tribunal and have said authoritatively that a single tribunal shall decide; there is no power to go beyond that decision; and the decision, if in favor of a railroad company, as it would be quite likely to be, is as conclusive as a final judgment of the Supreme Court could ever be, on the familiar principle that when the Legislature have assigned the trial of a particular fact or a particular class of facts to a particular tribunal, the decision of that tribunal becomes final and conclusive. You cannot go further.

I submit—and I appeal to the judgment of the House on that question—that it is dangerous to submit questions which involve the rights of the people to an arbitrament which is incapable of review and which fixes the decision, so likely to be adverse to the interests of the people, beyond the possibility of being taken to any higher court. I think it is dangerous.

Upon the other hand, what danger is there in allowing the ordinary tribunals to decide upon the question by the ordinary course of procedure? If it be a question of fact raised by any issue at law, it goes to the jury as a question of right under the Bill of Rights. If it be a question in equity, it is submitted to the court for its action, with a clear right to order an issue of fact upon any question on which they desire to be assisted by a jury, and after such determination the decision, whatever it may be, goes by the ordinary and regular course of procedure to the Supreme Court. Why stop it short of any such proceeding? Why impose such inflexible rule when it is impossible for us to anticipate the exigency or the circumstances which may render such review by the Supreme Court a matter of almost paramount necessity in the interest of the people? I repeat, I think it

is dangerous. It is always dangerous to change the course of common law procedure, unless we have a pre-vision strong enough to see to the very end of the whole effect which such change will produce, and this we cannot anticipate. It is utterly impossible for this Convention to say what necessities or what exigencies may press upon the country, upon railroads or upon the people in years to come under new modes of doing business, and under new conditions of things.

I believe it is much wiser to leave this class of cases to be tried by the ordinary course of judicial procedure than to undertake to establish a fixed rule which will cut off all appeal to the highest court of the State and leave the question bound hand and foot with all the parties and all their interests connected with it to the final decision of a jury; and such is the case, as I believe, from a careful reading of the whole section, for it is the question of the parallel or competing line that is to be decided. That is the language of the section. The question of the competing or parallel line shall be decided by a jury, and a decision is only a decision when it is final. If it be anything short of a finality it is not a decision in any technical or proper use of the term. There is a sense in which the decision of a subordinate court is called a decision, but it is by courtesy of expression. No question is decided so long as there is a possibility of reversing the so-called decision; and nothing is a decision, in accurate legal parlance, except that which concludes the question, and this section provides that the question shall be decided, that is, concluded by the verdict of a jury.

I regard the provision as dangerous, and trust that the whole concluding clause of this section will be stricken out, that the question may take the ordinary course, approved by the experience of years, and according to the approved methods of determination by the courts.

Mr. HOWARD. This thing has turned out about as I apprehended, when some delegates commenced to amend and alter the work of the Railroad Committee and the work of the Convention on its second and third reading. Now, what have they done? Have they done anything they are satisfied with? About the fifth section they cannot agree among themselves. They do not know what to do with it. The truth is, they had better let it alone. It was very good before; it was

just right before. It did not need any amendment, unless there is reason for the corporation which it affects being afraid of a jury. Some delegates say, "why not trust the courts?" We say, "why not trust the jury?" I say, trust both. There is no question that under the provision, as it now stands, the question of fact whether roads are parallel or competing lines will be tried by the court and by the jury just as any other civil case. I ask for the reading of the clause as it is now before Convention.

The PRESIDENT. The Clerk will read the concluding clause of the fifth section.

The CLERK read as follows:

"And the question whether railroads and canals are parallel or competing lines shall always be decided by a jury in a trial in open court, as in other civil issues."

Mr. HOWARD. Now, Mr. President, what can be plainer than that? It is to be tried in open court by a jury, as in other civil issues. If we were speaking of an action for libel as a criminal proceeding, we would have said, "the jury shall be judges of the law and facts;" but it required an absolute command of the law to say that the jury may be the judge of the law and facts in that particular case. Here we do not say that the judge shall not decide the law as in other cases; and unless we take that power from him, he certainly possesses it; there is no doubt about it.

What is to be decided by the jury? The question whether they are parallel or competing lines. That is a fact, necessarily so, and there is not any doubt about it. I do not see why this elicits so much discussion. It is because unquestionably they are afraid to trust a jury of twelve men, because by the words "in open court, as in other civil issues," we mean a jury of twelve men.

The proposition of the delegate from Columbia that he withdrew (and I was very glad to get rid of it) would have authorized the Legislature to provide a jury of three, or a jury of five or seven to try it out in a corn field or any other place; it did not need a judge; it could have been a railroad jury; and therefore it was that I was opposed to that; but as the Convention had put it in, I did not want them to ride over it by an ordinary amendment; I wanted them to reconsider and let them see what they had been about.

Now, I am satisfied not to have it amended at all. I do not believe you can

amend it, and I believe it is a great deal safer and better to leave it alone. There can be no proposition fairer, there can be none plainer than to say that this shall be tried in open court, as other civil issues.

Some gentlemen think that they would have to try it in every county of the Commonwealth. That is not so. Suppose the question arose between the Pennsylvania Central and the Philadelphia and Reading railroads. They are both parallel and competing lines; delegates have said you can never determine. Every man knows that the Philadelphia and Reading railroad has cars leaving its depot in Philadelphia and going to Harrisburg. That part of its line is both parallel and competing. Suppose the question should arise whether it was a parallel or competing line, upon a question of the sale of that road to the Pennsylvania Central or of the Central to the Reading, and it was taken into court. The issue to be determined by the jury would be whether these roads proposed to be leased or purchased or consolidated, were parallel or competing. Then they would call testimony to prove whether these roads were parallel or competing. It is perfectly apparent that they are both parallel and competing roads, and the jury would decide the question. Thus the judge who presided at the trial would decide every question of law; and if exceptions were taken they would go to the Supreme Court, and if the Supreme Court affirmed the decision it would be final and conclusive on everybody in the Commonwealth, either that it was a parallel and competing line or that it was not, just like any other case, and there is no doubt about it. And the best thing the Convention possibly can do is to adhere to the section as it now stands, and not permit it to be frittered away and destroyed if they mean to preserve this section five and protect the people of the Commonwealth.

Mr. BOWMAN. I simply rise to ask the gentleman from Allegheny one question. I am a little confused about this matter myself, and I appeal to him for light and information. Suppose that this question is raised in one county and, upon a given state of facts, the jury empanelled to dispose of the question decides one way, and suppose that a jury in another county, upon the same given state of facts, decide another way? Then what predicament would the contestants be in in that case? It is something that I do not understand. If the finding of the jury is

to be final and conclusive, as the original section, in my judgment, would make it, then I should like to know where the certainty of the verdict of a jury that might be found in that case would be. I should like the gentleman to answer that question if he pleases.

Mr. HOWARD. I do not think it will take long to answer that. We understand perfectly well that the court first having jurisdiction of the case would go through with it in the ordinary course of trial, and I understand that the judgments of courts are binding in this State, and by the Constitution of the United States they are binding all over this Union, over the same parties and the same subject-matter.

Mr. BOWMAN. The gentleman does not understand my question, I think.

Mr. HOWARD. Oh yes, I do.

Mr. BOWMAN. The question is raised, for instance, in the county of Montgomery. A complaint is made; the issue is presented to a court and jury, and the jury find for the complainant or against the complainant, if you please. So far as the case then and there is concerned, it is final between the parties. Now, then, another complainant rises up and demands a trial of the same identical question in another county, as he has a right to do, and the finding of that jury is against the finding of the first or in opposition thereto. That is my question.

Mr. HANNA. I understand the question to be upon the motion made by the gentleman from Chester to strike out all of the section after the word "line." For one I am in favor of that motion. I understand that the section sets forth a certain principle, namely, that it shall be unlawful for competing or parallel roads to purchase each other or to be managed by the officers of each other. When we thus ordain the principle, why should we go further and determine in the Constitution how that question is to be adjudicated? Why say that it shall be tried and determined by a jury trial? Why should we say that it shall be tried and determined by a bill in equity? Why do we take from the law-making power of the Commonwealth their province and say that it shall be tried in one way and not in another? I believe that we go too far in thus determining in advance how the question of fact shall be determined. I believe that the whole question whether or not the article is infringed by the railroads and the mode of ascertaining it

should be left entirely to the Legislature, because we have provided in the last section of this article that "the General Assembly shall enforce by appropriate legislation the provisions of this article." It is left to the Legislature to pass such acts of Assembly as shall enforce the fundamental principles that we ordain in the article itself. I think that is as far as we ought to go. I submit that it is a question entirely for the Legislature to settle and determine. They can pass an act of Assembly which shall regulate the form of procedure; they can establish the mode of practice in the courts for the purpose of ascertaining whether this article in the Constitution has been complied with or not. But, sir, we go further than retaining the principle and tie the hands of the Legislature and say that the whole question shall be determined only in the way that we name and no other. I submit that is entirely a question of practice which should be regulated by act of Assembly and not in the Constitution of the Commonwealth. For reasons which appear to me to be strong and good in this respect, I am in favor of the motion of the gentleman from Chester.

Mr. COCHRAN. I hope that this clause of the section will not be stricken out and that it will stand as it is, and I submit that the objections which are made to it are not valid. Now what is it in the first place that is proposed to be submitted to a jury? It is a question of fact, simply that and nothing else. Are these railroad companies parallel or competing lines, or are they not? That is a question of fact, and the intention of the committee in making this provision was to secure to the party complainant or any person interested in the question, the trial and determination of that question of fact by a jury of the country, which might otherwise be withdrawn entirely to another tribunal. But do we make that decision by the jury final and conclusive? Not so.

The language of the section as it was originally reported was, "according to the course of the common law." The criticism on that was that this trial in most cases, in the view of gentlemen, would not be according to the course of the common law, because an issue out of chancery was not a proceeding according to the course of the common law. Then the language was modified so as to read:

"A trial in open court as in other civil cases." Those words "as in other civil

cases" qualify the clause and leave the determination of the fact to the jury under the instructions and direction of the court and review of the Supreme Court on all the law involved in it, just as it is left in any other civil case in any of your courts. If it is an issue out of chancery for the information of the conscience of the chancellor, he receives that decision as in other civil cases and treats it as a chancellor would treat any other issue of fact directed by him.

The whole effect of this clause is to say that this question of fact shall be submitted to the jury, whether it be an issue out of chancery or on a writ of *quo warranto* to test the title of officers holding in violation of this section or otherwise; that the question of fact shall be left to the determination of the jury and in no other-wise than the question of fact in any other case is left to its determination. The language is "as in other civil cases." What does that mean? How is it left as in other civil cases? Left subject to the instruction of the court, subject to a motion for a new trial, subject to a writ of error, or if it be an issue in chancery directed and returned into chancery, and the chancellor decrees then the whole proceedings can be taken up by appeal to the Supreme Court.

That, sir, is the provision, and the question is whether it is the policy to preserve the right of trial by jury in all cases of this kind. It was believed to be important to the interests of the people that they should have the appropriate tribunal to decide this question, the jury of the common law, not a jury of view, not a jury such as you appoint in cases of damages where they act without any control by the court whatever, but a jury in open court as in other civil cases, and that puts the question directly on the proper foundation and makes it a trial of fact by a jury under the control of the court and subject to the review of the Supreme Court or any higher tribunal that may exist, just as any other question between two individuals is subject to the review of the higher tribunal.

I submit, therefore, after all this argument, that this clause ought to remain in the section. I regretted very much yesterday evening when the amendment was made by unanimous consent striking it out; but I had been so hurried and harassed, the imputation had been so directly made that I stood here to stand by words and letters without regard to sub-

stance or merit that I gave way against my judgment rather than that I should be longer subjected to such an imputation.

Mr. DOND. The objection that is made to the clause now under consideration is that it leaves questions of law to be determined by a jury. If it does, I wish to vote against it; but I deny that it does so. On the other hand, it simply prevents questions of fact from being determined by a judge. That is the sole effect of the clause under consideration.

Let us consider this section for a moment. Suppose that a railroad company was about to consolidate with another corporation, what would be the legal process taken by one who objected to the consolidation as contrary to this clause of the Constitution? He would file his bill in equity for an injunction to prevent it. That question would come before the judge upon *ex parte* affidavits, and the judge, upon those *ex parte* affidavits, might grant or refuse the preliminary injunction. If the preliminary injunction was granted a master would be appointed to take testimony, and the testimony would come before the judge, and the case would be decided by him, both on the law and the facts. That is the course of proceeding in equity.

Now, sir, what do we say? We say here that the judge shall not decide this question of fact upon *ex parte* affidavits, nor shall he decide it upon the testimony taken before a master, but he shall leave that question of fact to be decided by a jury. If you leave this clause out, the judge may decide the law and the fact, for it will be perfectly a question of fact. If you put it in, the judge cannot decide the question of fact, but the jury must.

But gentlemen answer that the jury must then also decide the question of law. I say not so. It means nothing of the kind. The jury never decide questions of law, and yet they decide the question after the court has laid the law down to them. If they do not take the law from the court, what is done? A new trial is granted, and a new trial is not only granted once or twice, but it may be granted twenty times if the judge is not satisfied with the verdict of the jury and if he considers that they have not taken his instructions upon the law. Now, sir, what is there here to prevent that? Nothing whatever. The same course will be taken here as is taken in any other case. We do not make an exceptional case. That is

all there is in this clause. It has this effect, and no more, that on an application for a preliminary injunction the judge may not decide either one way or the other upon mere *ex parte* affidavits, but he must have the question of fact to be decided by the jury on a feigned issue, if you please, as is sometimes now done in equity practice, and they decide that question of fact—for it is a question of fact and nothing else, whether the lines are parallel or competing—and when they decide that question of fact the judge decides whatever else of law there may be in the case.

Now, sir, there can be no difficulty about this matter. It is a plain question in my mind, and being such it is for us to decide only this and no more: whether the question of fact shall be decided by the jury or whether it shall be decided by the judge.

The PRESIDENT. The question is on the motion of the delegate from Chester (Mr. Darlington.)

Mr. DARLINGTON. On that motion I call for the yeas and nays.

Mr. BEEBE. I second the call.

The question being taken by yeas and nays, resulted as follows:

YEAS.

Messrs. Armstrong Baker, Bannan, Barr, Bigler, Bowman, Boyd, Brodhead, Broomall, Buckalew, Carey, Cronmiller, Curry, Curtin, Cuyler, Darlington, Davis, Dunning, Ellis, Fell, Green, Hall, Hanna, Harvey, Hunsicker, Kaine, Knight, Lambertson, Lear, Lilly, Littleton, M'Camant, M'Michael, Parsons, Purviance, John N., Reed, Andrew, Runk, Smith, Wm. H., Stanton, Wetherill, J. M., White, J. W. F., Woodward and Walker, *President*—43.

NAYS.

Messrs. Achenbach, Alricks, Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Beebe, Biddle, Black, Brown, Calvin, Campbell, Carter, Church, Cochran, Collins, Corson, De France, Dodd, Edwards, Elliott, Ewing, Fulton, Funck, Gilpin, Guthrie, Hay, Hazzard, Horton, Howard, Landis, MacConnell, MacVeagh, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Mott, Newlin, Niles, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Purman, Purviance, Sam'l A., Reynolds, Ross, Russell, Smith, H. G., Smith, Henry W., Turrell, Van

Reed, White, David N., White, Harry and Wright—56.

So the motion was not agreed to.

ABSENT.—Messrs. Addicks, Ainey, Baer, Barclay, Bardsley, Bartholomew, Bullitt, Cassidy, Clark, Corbett, Craig, Dallas, Finney, Gibson, Hemphill, Heverin, Lawrence, Long, Metzger, Minor, Mitchell, Palmer, H. W., Porter, Pughe, Read, John R., Rooke, Sharpe, Simpson, Stewart, Struthers, Temple, Wetherill, John Price, Wherry and Worrell—34.

Mr. J. N. PURVIANCE. I move to go into committee of the whole for the purpose of adding the following amendment at the end of the fifth section: "With right of writ of error for review as in other cases."

By the section as it stands the decision of a jury would be final and conclusive and there would be no power to review it in the Supreme Court; and, therefore, I offer this amendment to give a right of review as in other cases.

The PRESIDENT. The question is on the motion of the delegate from Butler.

The motion was not agreed to.

Mr. EWING. I move to go into committee of the whole to amend the fifth section by striking out of the eighth line the word "always" and inserting the words, "when demanded by the party complainant," so as to read:

"And the question whether railroads and canals are parallel or competing lines shall, when demanded by the party complainant, be decided by the jury in a trial," &c.

Mr. MACVEAGH. I think there will be unanimous consent to that amendment.

Mr. EWING. I would very much prefer that.

Mr. DARLINGTON and Mr. COBSON. Why not say either party.

Mr. EWING. No, I will indicate the reasons why I offer the amendment, and my answer to the suggestion to put in "either party" is this: As has been shown by several gentlemen on the floor, and especially by the delegate from Columbia, (Mr. Buckalew,) very clearly, many cases may arise under this provision where it is important to have a speedy decision, and where the delay of a jury trial would practically prevent the exercise of the right to enforce this provision. Now, the party defendant might in such a case demand a jury trial for the very purpose of delay, and I imagine that in every case that involved any considerable conflict of testimony, where

there was any serious question of fact, it would be decided by the jury. That the party complainant in such a case would ask for a jury, and it would only be in cases where the facts were scarcely disputed that the facts would be tried by the court, and this amendment would apply merely to those cases that require a prompt remedy and prompt decision.

Mr. DARLINGTON. I understand the proposition to be that one party may have a jury trial and not the other. Now, are we prepared to insert in the Constitution a provision which I fear would be pronounced out of doors as an infamous one, that one party should have a jury trial and the other should not? Why, sir, suppose application be made against a railroad company before an anti-railroad judge, if such a thing were possible or could become so, and you cannot trust an anti-railroad judge. Why is it that a railroad company called into court against its will as a defendant may not have the same privilege of having a question of fact decided by a jury, instead of being forced into an immediate decision by a judge who might be possibly in favor of one side? I do not believe in this thing. I do not believe there is any danger of the judges being one way or the other. I believe in the purity of the administration of justice, and I believe in the purity of the administration of justice in the past history of this State, and I believe that it will be in all time to come pure; and there is no occasion therefore for guarding against a decision by a member of the judiciary in any part of the State when a railroad shall be a party any more than when individuals are parties. If it be right, as has been contended here, that this question of fact shall be decided by a jury, then is it not right to allow it to be decided in that way, let whichever party may ask for it a jury trial? Place in your Constitution a provision like this, and what will be the judgment of the civilized world? Why, that you are willing to do justice against a party but not for him. It will not be impartial justice that this Convention seeks, but it will be partial justice, a jury trial if one side wants it, not jury trial if he does not want it. I agree to no such principle as that.

Mr. BUCKALEW. Mr. President: These remarks will do very well for the ears of the groundlings; but anybody who is acquainted with judicial proceedings ought to see that they are inapplicable to

the question now before this Convention. In any case the court may order the trial of an issue under this section by a jury. Wherever a party defendant calls for it upon good grounds the court will order an issue to be tried by the jury. That is the general practice in equity courts. Besides that, if the question be determined by the court itself upon the record as made up, the whole of it goes, or may go, to the Supreme Court for review. So that a corporation that is unjustly treated in the court of common pleas can have a review of the entire record in the Supreme Court.

Mr. CUYLER. Will not the gentleman allow me to inquire whether the award of an issue in an equity proceeding is not discretionary with the chancellor; and can the exercise of that discretion be reviewed in an appellate court?

Mr. BUCKALEW. The complaint of the gentleman from Chester is in an opposite direction. He desires to coerce and compel a protracted, long delayed trial by jury in all cases, whereas for the enforcement of this section summary, speedy action is indispensable to its complete and useful operation.

I will not detain the Convention long; but why have we in this State abandoned our former ideas of not having equity jurisdiction in our courts of justice? We uniformly withheld courts of justice from jurisdiction of this sort in the early days of our Commonwealth, and we do not yet permit courts of equity to be organized and separately established. Why are we driven upon this equity practice that is now so rapidly increasing in our courts of justice in Pennsylvania? It is because we cannot handle corporations under common law forms; because we cannot administer justice promptly and efficiently through the old cumbrous law forms which were suited to a different state of society, and to somewhat different institutions. Therefore it is that year by year we are compelled to arm our courts with extraordinary powers and almost dictatorial powers in order to curb the insolence and abuses of corporate authorities. This whole proposition to have the long delay of jury trials I look upon as impairing the efficiency of this section to a greater or less extent; but the Convention has determined to retain this ancient machinery and not to allow summary, immediate, or at least prompt justice in these cases.

Having made that decision that there shall be jury trials, I want them ordered only in cases where there will be some clear propriety for them. Where a man objecting to corporate action shall say to the court that there are distinct issues of fact to be determined by a jury, a jury trial will take place as a matter of course; and again, whenever the court, being put in possession of the general features of the case by bill and answer, shall think it necessary in order to determine complicated questions of fact, the court will order such trial. I deny, however, that we ought to give a corporation defendant who is in contempt or alleged to be in contempt of this Constitution, the power to have his case decided by the tedious processes of common law and create a delay of years and defeat the ends of justice—in short the very objects of this section. If we are to have a section upon this subject, let us have one that will work and be efficient. Let the court at least, if the party complainant thinks it is not a case for a jury trial, and the court thinks it is not a case for a jury trial, have authority to proceed and put its hand upon the corporations concerned and stop them in their action until the issue can be decided. If a disqualified officer of one company seeks to enter another company in order to control it, let the court put its hand on that officer by a preliminary injunction and stop him until the case can be finally heard and determined. Or, if a company is endeavoring to consolidate with a parallel and competing line, let the court restrain it by its injunction until full hearing is had before the judge. The defendant officer or the defendant company cannot complain, because not only has the defence a hearing before the judge, not only has it opportunity for an issue, if the judge thinks proper, but it has complete remedy in a court of errors upon the whole record.

I only speak upon this proposition because I want whatever we put into our Constitution on the subject of railroads to be efficient and to work, not to put in strong promises to the people and then render them illusory by the very language in which they are clothed. We have appeals made to the common law; but the common law did not know anything about these corporations. The common law did not know anything about these railroads and these other great associations that have risen up in our midst and almost control our political and social

life, and its arrangements are not adequate for them. We are compelled to make new and novel and if you please unprecedented arrangements for the necessities that surround it. Therefore I am opposed to this adherence to ancient forms when the only result of it will be to defeat our objects.

The PRESIDENT. The question is on the motion of the gentleman from Allegheny (Mr. Ewing.)

Mr. CUYLER. On that question I call for the yeas and nays.

Mr. HOWARD. I second the call.

The yeas and nays were taken and were as follow, viz:

Y E A S .

Messrs. Achenbach, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Barclay, Beebe, Biddle, Bigler, Black, Brodhead, Buckalew, Campbell, Carter, Church, Clark, Cochran, Collins, Corson, Davis, De France, Edwards, Elliott, Ewing, Gilpin, Green, Guthrie, Hall, Hanna, Harvey, Hay, Hazzard, Hemphill, Horton, Kaine, Landis, Lawrence, Lilly, MacConnell, MacVeagh, M'Camant, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Nowlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Purman, Purviance, John N., Purviance, Sam'l A., Reynolds, Rooke, Ross, Russell, Smith, H. G., Smith, Wm. H., White, Harry, White, J. W. F., Wright and Walker, *President*—64.

N A Y S .

Messrs. Alricks, Andrews, Bannan, Barr, Bowman, Boyd, Broomall, Calvin, Carey, Cronmiller, Curtin, Cuyler, Darlington, Dodd, Eells, Funok, Howard, Knight, Lamberton, Lear, M'Michael, Minor, Niles, Parsons, Pughe, Runk, Smith, Henry W., Stanton, Turrell, Van Reed, Wetherill, J. M., White, David N. and Woodward—33

So the motion was agreed to.

ABSENT.—Messrs. Addicks, Ainey, Baker, Bardsley, Bartholomew, Brown, Bullitt, Cassidy, Corbett, Craig, Curry, Dallas, Dunning, Fell, Finney, Fulton, Gibson, Heverin, Hunsicker, Littleton, Long, Metzger, Mitchell, Mott, Palmer, H. W., Porter, Road, John R., Reed, Andrew, Sharpe, Simpson, Stewart, Struthers, Temple, Wetherill, Jno. Price, Wherry and Worrell—36.

The Convention accordingly resolved itself into committee of the whole, Mr. S. A. Purviance in the chair.

The CHAIRMAN The committee of the whole have had referred to them section five of the article on railroads and canals for the purpose of striking out the word "always," and inserting the words, "when demanded by the party complainant." That amendment will be made.

The committee rose, and the President having resumed the chair, the Chairman (Mr. S. A. Purviance) reported that the committee of the whole had made the amendment according to the instructions of the Convention.

Mr. MACVEAGH. I now renew the amendment to section four which I offered yesterday and withdrew.

The PRESIDENT. Are there further amendments to section five?

Mr. J. W. F. WHITE. Will the delegate permit me to make a suggestion in reference to section five before he proceeds?

Mr. MACVEAGH. Certainly.

Mr. J. W. F. WHITE. I would suggest to the Convention the striking out of the words, "in a trial in open court," as wholly unnecessary and useless in this fifth section. The section will then read: "shall be decided by a jury as in other civil issues." The words I propose to strike out are entirely useless and unnecessary.

Mr. CUYLER. I hope these words will not be stricken out. I do hope the railroad companies, these malefactors, may at least have the opportunity of being tried in open court! It is bad enough as it is. We have just solemnly voted that suitors are not to stand equal in the courts of justice of the Commonwealth. Now we want to strike out words the result of striking out of which may be to give them a secret or star-chamber tribunal to decide their cases.

The PRESIDENT. There is nothing as yet before the Convention. The delegate from Allegheny will state his motion.

Mr. J. W. F. WHITE. I move to go into committee of the whole for the purpose of striking out the words I have indicated, "in a trial in open court."

In reply to the delegate from Philadelphia, I will state that all trials by jury have to be in open court. Everybody knows that, and no person better than the gentleman himself. Striking out these words will not change the character of the trial at all. All trials by jury are bound to be in open court, and the words I propose to strike out are simply surplusage and unnecessary in the section.

The PRESIDENT. The question is on the motion of the delegate from Allegheny.

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

The CHAIRMAN. The committee of the whole have had referred to them section five of this article, with instructions to strike out the words, "in a trial in open court." the amendment is accordingly made.

The committee rose, and the President having resumed the chair, the Chairman (Mr. Collins) reported that the committee of the whole had made the amendment instructed by the Convention.

Mr. MACVEAGH. I offer the following substitute for the fourth section:

"No corporation engaged in the transportation of freight or passengers shall make any discrimination in charges for transportation of either freight or passengers of the same class larger in amount than is proportioned to the expense of such transportation, and no special rates shall either directly or indirectly be allowed, excepting for excursion or commutation tickets. Persons and property transported over any railroad shall be delivered at any station within the State at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station."

The PRESIDENT. The motion of the delegate from Dauphin is before the House.

Mr. MACVEAGH. Mr. President: The Convention will have noticed that there is an additional sentence in that proposed amendment, added since it was offered yesterday. As I believe, that additional sentence in no manner changes the effect of the section as offered; but it is supposed by some gentlemen that it is a limitation upon the generality of the expression used in the former part of the substitute, and that it gives a clear, definite construction, in one respect, to the substitute. That is, it prevents, under all circumstances, a larger charge for a shorter distance than for a longer distance. It gives that definition to the section in addition to the general doctrine, which, I think, includes that definition, that all transportation shall pay in proportion to the cost of it.

This Convention will be obliged to decide upon one of two principles; either leave these corporations without restric-

tion, subject only to the laws of trade, and to the consideration of their own interests; or else it must agree upon some philosophical principle of restriction.

To my mind it will not do to say boldly that no discrimination whatever shall be allowed, for the simple reason that that floats us upon an unexplored sea of judicial determination and decision. It is not safe in my judgment to say that only such discriminations as are not unreasonable shall be allowed, because I think that is too indeterminate also. But if you propose to impose any limitation whatever, you may impose this limitation, that each service rendered shall bear the same relation to the expense incurred in rendering it as each other service rendered; that the cost of transporting freight or passengers shall be the basis of the charge, and not the arbitrary will of the company, and not the arbitrary circumstances of the situation of the party.

You have no right in my judgment to make your will stand as a standard of compensation for a railway company, and the railway company has no right to ask this Commonwealth to let its will stand as the standard of its compensation for it is not true that the rules of trade alone will protect the people from possible discriminations of an unjust character by a common carrier; and on the other hand it is equally unsound that we should take advantage of the accident of our geographical situation and that we should resolve ourselves into a "no through-fare," as portrayed by the delegate from Philadelphia (Mr. Carey) the other day. But I have yet to hear the slightest objection to the principle now invoked, that the cost of each service rendered should be proportioned to the cost of rendering it; that whoever goes upon this common highway shall be in exact equality with everybody else; and that if through freights can only be carried at a loss, it shall not be lawful to make up the amount lost in carrying the through freight by undue and excessive charges upon the local freight; and if, on the contrary, for I ask the Convention to accept the other conclusion also, through freight can be carried, as it can be carried, cheaper than local freight, then this Convention has no right to say that the through freight shall pay the rates of the local freight when it does not cost those rates to transport it.

The citizen of San Francisco has a moral right to have his merchandise carried to

New York through Pennsylvania without the weight of a finger being laid upon him by the people of this State; but he has no right to demand that his freight shall be carried below its cost, and that the loss of such carriage shall be burdened upon our people. It is not necessary to do injustice in either direction. Require the company to ascertain what his proportion of the expense is, and make him pay it, and require us to pay the full measure of the proportion of the expense of the service we receive.

It is not as Pennsylvanians, it is not even as Americans, it is as members of the human family entitled to use a public highway, that each man stands the peer of every other wherever he may live and whatever may be the service that he requires. And the practical application of this principle will not be difficult. Tell-sheets, if improper considerations do not intervene, are naturally made upon that principle. It is the only principle upon which they can be honestly made; and it is only in case some improper consideration should enter into the matter that they will ever violate that principle, for it follows as the night follows the day, that if a corporation does one man's work below price, it will do the next man's work above price; and therefore the measure of justice is the measure of equality.

We ought not to attempt, as in Illinois, to write our standards of freight in a law, nor to attempt, as was proposed here, to make the accident of the distance through the State the standard of charge, but we ought to secure the incorporation in the fundamental law of the principle of equality, which is justice. So that when I go with ten pounds of freight knocking at the door of the greatest carrying corporation, I shall be charged what the service I demand costs them, with their percentage of profit, and when he who holds in his control the products of a great agricultural district, comes and demands their carriage, he shall be charged what the service he demands costs them, with their percentage of profit. If I travel ten miles westward they shall charge me what it costs them and their percentage of profit, and if my neighbor girdles the globe in his journey, and returns to the city from which he started under their guidance, they shall charge him only what it costs them to transport him, and the same percentage upon it. That is equality, and equality is justice.

Now, we add an explanation to this sec-

tion to prevent misunderstanding and misconstruction of it. It is idle to say that it will not work. It will work because it is honest. It will work in a country of equality, because it is of equal operation; and it is all that will work, as it seems to me. But if gentlemen can demonstrate that the principle I invoke will interfere unjustly with, or cripple the railroad corporations of this State, or prevent their doing justice to everybody, I will abandon it in an instant; for nobody here I trust is either the friend or the enemy of these corporations. The men on this floor, I trust, are endeavoring to meet a new condition of things created by the growth of these corporations, not in hostility to them, not in ignorance of the great benefits they confer upon the country, and not in servility to them, but looking full in the face the public duty which calls us here and resolute to discharge that duty according to the best light we can obtain upon it; and whatever result is reached, I, for one, will be happy in the conviction that my colleagues here have honestly striven to reach that result which they think will not impair the usefulness of our railway corporations and at the same time will efficiently guard and protect the just rights of the people.

Mr. ROOKE. Mr. President: It appears to me that this Convention ought to be willing to do what the people desire of them, or what they think will operate for the benefit of the people in this matter, and I have no doubt that it is the purpose of all delegates. But, sir, I propose to vote against the amendment offered by the gentleman from Dauphin, and I desire to state the reasons that will control my vote.

I do not think this amendment reaches the evils that the people complain of. Under it a company carrying for large shippers a distance of one hundred miles in this State and charging them one dollar and fifty cents for their freight will still be enabled to charge a shipper shipping ten miles one dollar for that freight. They will say that that is a proportional part of the expense. They will do then as they do now, allege that the cars being taken out of the regular course by the shipper who has no facilities for loading or unloading, it will occupy the time of those cars that have run those ten miles at least two days; whereas, in their regular line of through freight, they would carry them that hundred miles in the course of

six hours. Consequently this proposition would not remedy that great abuse of which the people of this State complain.

But in another respect it will interfere very much with the successful operation of the railroad companies. I say that this amendment will prevent the carrying of return freight at any less price than they charge for direct freight, because if they attempted to do that, some one interested in the shipping of direct freight would soon claim that the expense of transportation was as great on the return as on the direct freight. Let me illustrate this point. A large amount of coal is being carried daily to Erie, Elmira and Buffalo, at say \$1 50 per ton, which we do complain of. This amendment would prevent that railroad company from carrying any return freight at any less price, because, if they did so, the shippers at this end would complain that they were charged more than their proportion of the expense. There are some seasons of the year in which a large amount of freight goes from this State westward, and the companies, in order that they may not be compelled to return without freight, in such cases take up freight at intermediate points, at mere nominal prices. This amendment would prevent that, because the charges would not be in proportion. I think, therefore, it would work badly.

Mr. President, it is strange that we can talk here about all other subjects except this one of railroads, without exciting our prejudices. Is there anybody here willing to put in the organic law a provision that will prevent a railroad company which carries coal from Schuylkill Haven to Philadelphia for two dollars a ton, from carrying return freight at one dollar a ton? This amendment would prevent that, because the expenses in going back would be just as much as they were in coming here. The expense to the railroad company is just the same in the one case as in the other. How should we be particularly benefited by such a provision? I say that no benefit will be derived by the people from it.

The instances that I have given you are occurring every hour of the day, every day in the week, and every week in the year. Thousands of them may be found all over the State of Pennsylvania. This amendment will not help us any. I think it would only create difficulty. It would prevent the railroad companies

from making money that they ought to make. Some people think that the railroad companies are making too much money. I doubt very much whether the contrary is not true.

The section reported by the committee of seven has a great many things in it that do not amount to anything. It begins: "All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals." In the very first section of this railroad article, we say that they are public highways, and I have always believed that on public highways everybody had equal rights. Therefore I think we can afford to do without that provision.

Then it proceeds: "and no undue or unreasonable discrimination shall be made in charges or for facilities;" that is, in one respect and not in another.

Again: "Persons and property transported over any railroad shall be delivered at intermediate stations within the State at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station."

That means simply this, and it might as well have been said, "you shall not charge any more for a shorter distance than a longer distance." I think it is very doubtful whether the railroad companies should not be allowed to do that. They do that in Great Britain. The English traffic act of 1854 provides that railroad companies under certain circumstances may be allowed to charge more for shorter distances than for longer ones.

Mr. President, this is a subject which it is very difficult to regulate. There has not been a plan recommended by any member of this Convention that I think will work in this State. I was willing to say that we can do without any section of this kind in this article, but the question will now come up as between what the Railroad Committee and what we think we can afford to give them, because a great many propositions have been presented to the Convention on this subject which are very difficult to understand, and I have no idea that the men who wrote them knew anything about them. The proposition originally reported by the Railroad Committee means something. I wish gentlemen to understand that it means a great deal. The man who drafted it understood what it meant. That committee reported that rates should be

uniform through this State and uniform on freights coming into this State. It means uniform freights.

Now, the question is whether we are prepared to accept that. That section today means what it meant when it first came into this Convention from that committee. It means that there shall not be any discrimination in charges for the carriage of either freight or passengers of the same class between or against the people of this State. It does not make any difference whether it is in bulk or by the ton, it will be so much per ton per mile, or else they discriminate.

If we must have anything on this subject, if we can come to any compromise in regard to the matter, I propose to offer the following, which is the fourth section of the original report of the Committee on Railroads and Canals:

"No corporation engaged in the transportation of freight or passengers in or through this State shall make any unreasonable or unjust discrimination in charges for the carriage of either freight or passengers between or against the people thereof, and no special rates or drawbacks shall either directly or indirectly be allowed to one that is not allowed to all; and the Legislature shall pass laws to correct abuses."

The PRESIDENT. That proposition is not in order at present.

Mr. HOWARD. Before the vote is taken I desire to say a word, because I would like to appear consistent on this question. I have said a great deal upon it, and in defence of it, the proposition as reported, and I would be very glad if the section can be amended by the Convention so as not to destroy it. I would be willing to support the amendment of any other delegate. I have no pride of opinion on this subject at all.

But, Mr. President, I rise in my place now to say that notwithstanding all that has been said on the subject, I apprehend that the whole force and meaning of section four, as originally reported, has not been fully comprehended. I claim that the original section four means just what the delegate from Dauphin, as nearly as it is possible to get at it, undertakes now to make it mean by different language. The original section said: "No corporation engaged in the transportation of freight or passengers shall make any discrimination." The amendment is: "Any discrimination larger in amount than is

proportioned to the expense of such transportation."

If it is proportioned to the expense, it is no discrimination at all; and for that reason I say that that section four has never been fully comprehended by all the delegates in this Convention. It seems to have been misunderstood. How can it be a discrimination when they only charge the difference in the expense of transportation? It is not true, as the delegate who has just taken his seat says, that it fixes a uniform rate of freight and charges per ton per mile, or anything of the kind. It does not. It says that there shall be no discrimination. What is meant by that? It is a general term. It must be applied undoubtedly in the end by the courts if a controversy should occur. What is a discrimination? Charging one person more than another? Where it costs more to transport one man's freight than another's, it is no discrimination to make corresponding charges. The section contains a sound and complete and perfect principle, and it is now sought to destroy it. I am willing to stand by it, and if the Convention stands by it, they lose nothing. They may think they can amend it, but they cannot amend it. That is out of the question. You have either got to wipe it out altogether or let it stand.

To say that a charge based in the language of the distinguished delegate from Dauphin upon the expense of transportation is a discrimination, is a violation of language and of the meaning of language and of the definition of terms. It is not a discrimination at all. If it costs the transporter five dollars more to transport for me than it does to transport for another, is it a discrimination that the freight necessarily has to bear the additional charge of five dollars? It is no discrimination. It is exact justice. It is exactly right. It is what is reasonable. It is just what we have been trying to put in here.

I appeal to this Convention if I am not right. I ask as a question of principle, when we declare that there shall be no discrimination, what is meant by that? If you take two parties upon whose goods the cost of transportation would be clearly alike, it would be a discrimination to make the charges different; but if the cost was different, then it should be unquestionably proportioned to the cost. Then there would be no discrimination. Therefore the section is right. I maintain that it is right just as it is. I have

advocated it time and again; but if I am out voted, I shall submit as gracefully as possible, just as I have with many other things here. I maintain it as a principle; it is right and proper, and I say it covers everything advocated by the distinguished delegate from Philadelphia, (Mr. Dallas,) and by other delegates who wanted to insert this "unjust and unreasonable" clause, and all these other qualifying adjectives, things I am opposed to using in making a Constitution, because they involve the people in trouble and continual law-suits and litigation. Let us lay down a principle, and shippers must apply it, or if questions arise under it let them go to court and have it settled.

I assert again, that when we declare the positive principle that there shall be no discrimination, it means precisely that they shall not charge one man more than another where the cost is the same. Of course it means that; it cannot mean anything else; and if it means that then let it stand. Let us adhere to this naked principle. Put this in the Constitution and there will be no mistake. We shall have done justice to the people, and we shall have done justice to the transporter.

Mr. BROOMALL. If the gentleman from Allegheny were a lawyer, I would like to ask him a question.

Mr. DALLAS. He is one.

Mr. BROOMALL. No, sir.

Mr. DARLINGTON. Certainly he is.

Mr. BROOMALL. I would never have suspected it. [Laughter.]

Mr. HOWARD. Well, sir?

Mr. BROOMALL. Suppose, after all our provisions against discrimination, the railroad company should actually make a discrimination, and the Legislature, which never can be trusted on railroad matters, should refuse to pass any law on the subject, where is to be the remedy?

Mr. HOWARD. Our remedy would be just precisely where it is in a great many other things. We have got to trust the Legislature if the railroad companies do make discriminations that are not proportioned to the cost.

Mr. BROOMALL. I am answered. That is right.

Mr. HOWARD. I understand that very much of our work must be left to the Legislature after all. I do not suppose, as the delegate seems to expect, that our work will be so complete and perfect that it requires no legislation. If he does think so, he is entirely mistaken. The

delegate may think that he put a question to me that was exceedingly smart. I see no difficulty in the matter. It does not disturb my position in any way whatever.

Mr. DALLAS. To use a phrase that the State Printer might perhaps have saved himself expense by stereotyping, I have no desire to detain the Convention, but I have not the good fortune of my friend from Columbia (Mr. Buckalew.) I have not already made twenty years of record to which I can triumphantly, as he may well triumphantly point. I am making in this body my first, and, if I retain the possession of my intellectual faculties, it will be, I believe, my last record in any legislative assembly, I am anxious therefore that the history the stenographers of this Convention are making may, as far as I am concerned, show that I have not surrendered my mental powers (such as they are) to the seductive blandishments of gentlemen who especially advocate the corporation view of this question of discriminations, and that I have not been at all dismayed at the loud-mouthed rhetoric of some of those who hold the extreme opposite view of the subject. I think that this question of discrimination, which has always been the rock of difficulty to me, should have calm, deliberate and rational consideration, and is not one which can be elucidated by excited harangue and wild denunciation.

I had the honor long ago, to offer what I then thought, and still think, is a proper section on this subject; one that provided that "no undue or unreasonable" discriminations should be made. That, of course met the hostility of the gentlemen who reported the section now before the Convention. But, sir, this prolonged debate has established one thing, if nothing else, and that is that I was right in that proposition. No ten delegates are able now to agree upon and put into form what discriminations are unreasonable or unjust. The gentleman from Dauphin (Mr. MacVeagh) has, in my judgment, more nearly than any other indicated by his amendment the true test of reasonableness in discriminations, for if there can be a general rule upon that subject, that rule is to be found by contrasting charge with expense. But I do not think we can safely adopt even that rule, proper as it seems to me now, as our unbending law for all the future.

The only objection which has any force in it to the use of the language "unreason-

able and undue," is that it leaves the question open to the courts and to the Legislature. I have by my votes heretofore, shown that I agree that there has been much corruption in the Legislature in the past; but certainly there have always been enough good men in either House to save even the Sodom of Harrisburg from utter destruction. Our friend who sits by the President (Mr. Harry White) has been there, and is now a member of the State Senate. Frequently, during our sessions, his clarion voice has hardly ceased to echo in our firmament before it has fallen upon the ravishing ears of Senators. Certainly that is something to be said on behalf of our General Assembly! We have also been represented by the gentleman of the same name from Allegheny, (Mr. D. N. White,) and we have had there the gentleman from Fayette, (Mr. Kaine,) with others now upon this floor, to whom it would be useless to refer—for not to know them would be to argue ourselves unknown; and who will say that it is impossible to have a good Legislature in the future, for it is not impossible to find in the State of Pennsylvania even the peers of those to whom I have referred, or to induce even themselves to return again. We have already provided for a fair system of election for the people; and, no matter what it has been in the past, if for the future our Legislature should not be what it should be, the people will be at fault, and our system of government will have been proved to be a failure.

But I do not propose to remand this whole question to the Assembly. I have never anticipated and do not suppose that, under any circumstances, the Legislature should lay down precise the minute rules on this subject for the government of corporations, any more than I believe it possible for this body intelligently to do that thing. I suppose that in the case of any one notorious glaring, demonstrated wrong the Legislature might, if in its wisdom it thought proper, put its finger on that one wrong, with the full knowledge that if it erred it would possess the power to correct its mistake. But suppose that we (even though we may possess all the present wisdom and virtue of the State) should, being after all, only finite beings, fall into error, where, after we shall have finally adjourned, and have been "dissolved into thin air," will be the power effectually to remedy any of the defects of

our work? Still, I would not remand this matter entirely to the Legislature, and what I had the honor to propose did not so remand it, but left it in the main to the courts of justice, and so does the amendment of the gentleman from Dauphin. If this amendment prevails, and I hope it will, the real question, in every case, will be whether the discrimination complained of "is undue or unreasonable," and the rule for determining that question will be whether the charge for service is proportionate to the expense of transportation involved. The objection even to that is that it limits the court in its examination of the question to but a single subject of consideration. The expense of transportation will be the only matter for investigation, whereas the unreasonableness of the discrimination may well depend upon other considerations as well, and therefore it is that I think even in this amendment we have the difficulty that in its undertaking to be minute, it incurs in its grasping after particularity the risk of leaving out some of the very wrongs which it is desired to remedy.

Why, sir, the city of Pittsburg, and I have great regard for that city as the city of my birth, and I have great respect for its delegates on this floor, seems to have taken control of this question. They have their own special grievances, and they have successfully sought to inject them into the Constitution, putting them in its "hard, fast lines," and making them a law unto the courts, so that no matter what other grievances the rest of the State may now or hereafter have, the judges will be compelled to say: "you have put into your Constitution not that *all* 'unreasonable discriminations' shall be unlawful, but that this particular class alone shall be prevented," and to this extent the provisions of this fourth section are a dangerous restriction.

The best illustration of what I mean is what occurred under the Constitution under which we now live. In that Constitution, in the Bill of Rights, there is a provision that no man's property shall be taken or applied to public use without just compensation. I can imagine some gentleman in the Convention that framed that instrument, when that section was under consideration rising and saying: "Let us not use these particular words; let us say that property shall not be in any way injured without compensation;" and I can imagine another gentleman, in reply, saying: "No! We want to get

at the root of the evil; we want to name the exact wrong to be remedied, and so insisting upon the words taken or applied." They did use these words "taken or applied" and only those words, and what has been the result? The Supreme Court has said "You have here used particular words; you have undertaken to indicate the precise evils that are to be remedied, and the expression of the one being the exclusion of the other, no matter how much your property may be *injured*, if it is not taken or applied, you have no remedy and are not entitled to any compensation."

That is the risk, the evil, and the danger of this present section. It is one that appeals to those gentlemen who have at heart the purpose apparent in it. But, "Oh, no," they cry, "Let us get to the root of the evil," and in order to get to the root they must name their grievances. I sometimes fear that the root they have found is "the insane root that takes the reason prisoner." They have been utterly unable to see anything but their own special and present injuries, and they run the risk in providing for them of leaving the door wide open to any others that may arise, and they accept the danger of setting down some things as grievances which time may prove to have been necessities.

Mr. CUTLER. I find myself unable to agree with the gentleman who has just spoken, that this amendment is better than the section; and I find myself equally unable to agree with the mover of the amendment, that it is founded upon sound principles. I cannot join with him in the jubilant shout with which he uttered to the Convention his conviction that this amendment rests on sound principles. I have before spoken on this question, and, I will venture to say, with very little effect; but I desire very briefly and as clearly as I am able, to state to the gentlemen of the Convention what I understand to be the principle which runs through this amendment, and what its practical effect must be. I understand that you are to take, in all cases, as the first element of your calculation of expense, the cost of transportation. That, of course, varies very much, according to the locality from which and to which you transport, and having ascertained that fact, you are to use a uniform ratio of profit to the company on each of its transportations.

Let us see how that works in practice.

When a railroad which carries freight to the city of Philadelphia reaches Cincinnati, reaches Chicago, reaches St. Louis, and reaches other points in the west, it comes into competition with great carrying lines which pass not over the soil of our State, but which carry to the rival cities of Baltimore and New York. Of course these rival roads determine what the rates of charge for transportation from those cities shall be. If this amendment of the gentleman from Dauphin prevails, if that charge falls below the price that would be made up of the cost of transportation and the uniform rate of profit, the lines that carry into and through Pennsylvania must refuse the business. That is the inevitable consequence. Gentlemen cannot fail to perceive that it can have no other possible result than that. Whenever they are not able to earn for the freight they shall carry from these competing points a price made up of the cost of transportation, with superadded to that the ratio of profits which is allowed to the company, they must refuse the freight.

I undertake to say to gentlemen that from the morning of the first of January to midnight on the thirty-first of December in every year that has occurred for the last eight or ten years, not one single pound of freight could have been brought, not one single passenger could have been carried from one of these competing points into the State of Pennsylvania under the operation of such a system as this amendment proposes. The inevitable effect of it is simply, as I have before said to this Convention, to build up that wall of brass around the outer boundary of our State that shall absolutely exclude her from all business intercourse with the world that lies around us. It can come to no other result than that. It will dry up the prosperity of the railroads of this State. It will dry up the prosperity of the city of Philadelphia until the very grass will grow in your streets. It will take away from this State the products of other States which mingle themselves now with the industry of this State, supporting our population and paying taxes liberally into the Treasury of the Commonwealth, and for no other possible result than just that very one result of which I spoke. I pray gentlemen to pause and consider before they do this thing.

Let me tell them what further consequences it carries with it. To-day and for

years past, practically, the Pennsylvania railroad company has carried freights for the people of this State of Pennsylvania at about forty-five per cent. of what she was permitted to charge by the laws of the State. Her prices for years have not exceeded forty-five per cent. of what she is legally entitled to charge. Now, when you take her away from that condition and when you render it impossible for her to receive through freight from competing points beyond the State, you do compel that road, within the limits of the charter, in order that it may earn a fair compensation for its stockholders, to saddle upon the local trade of the State the profits she loses in the business without the State. She must increase the charges everywhere within the Commonwealth in order to earn a competent dividend for her stockholders, and she has the legal right to do it under her charter and the laws of the Commonwealth. She must increase the charge upon the local transporter just in proportion as you cut off the other business without the State.

You are, therefore, by the passage of this amendment, which, if it had been designed in pure wantonness for the destruction of the State, could not have been more ingeniously worded, as I view the subject—you are therefore first cutting off from the Commonwealth of Pennsylvania and her cities every pound of freight that is now received from competing points beyond, and you are in the second place building up the cities of New York and Baltimore at the expense of the city of Philadelphia, and you are in the third place taking away from the industries of the Commonwealth the products of other States which are now brought within the Commonwealth and mingle themselves with the industries of the people, and you are in the fourth place taking away from the Treasury of the Commonwealth the taxes which this inter-State trade now yields to the Commonwealth; and for all this what will the people of the State gain? Only increased burdens; because by these compulsory laws the railroad companies would be deprived of the profits that would be derived from the trade without the State, thus permanently damaging every interest of the Commonwealth which employs the railroads of the State.

These seem to be propositions so clear that I cannot insist upon speaking longer. I know of no answer. I am incapable of conceiving of a reply to them, and I utter

them with knowledge of the subject and profound conviction of their truth. Therefore it is that while I recognize in this article many things that must vastly cripple the corporate interests of the Commonwealth, I recognize in this amendment that which will put the knife into the very inner heart of the people and the prosperity of our State.

Mr. PURMAN. On a former occasion, I said to the Convention that so far as my information went (and I have mingled considerably amongst the people of the State) the people of Pennsylvania were friendly to railroads, and are very anxious to have them constructed in every county and section of the State. The people are interested in their construction and fair and successful operation both within and without the State. It is conceded on all hands that the construction and successful operation of the railroads of Pennsylvania have brought the State to its present great and prosperous condition. So anxious were the people of south western Pennsylvania to have a railroad constructed up the valley of the Monongahela river, that they instructed their representative in the Senate to vote for what is commonly called "the nine million bill," so severely criticised the other day by a member of this body. But, sir, while the people have so great an interest in the railroads of the State, and are quite willing that the right of eminent domain may be exercised by the State to the very verge, and even vexatiously to the ordinary rights of property of the citizens, yet the people are determined to be the *masters* of railroads and corporations, and to hold them as their servants. The people will compel these corporations to be used for *public* purposes, and as *public highways*.

One of the objects for which this Convention was called by the people was to impose wholesome, necessary and proper limitations upon the growing power of the gigantic corporations. The people for years have watched the growing power as well as the oppressions of the great corporations. And I firmly believe this Convention will do its whole duty in this regard as God gives the members the power to see the right.

Now, sir, each of the propositions before us are offered for the purpose of imposing limitations and restraints upon railroads as common carriers. The section of the article under consideration and numbered *four*, reads as follows:

SECTION 4. No corporation engaged in the transportation of freight or passengers in or through this State, shall make any discrimination in charges for the carriage of either freight or passengers of the same class, between or against the people thereof, and no special rates or drawbacks shall, either directly or indirectly, be allowed, excepting for excursion and commutation tickets. Reasonable extra rates within the limits of the charter of a company may be made in charges for any distance from the place of shipment not exceeding thirty miles.

The amendment of the gentleman from Dauphin (Mr. MacVeagh) is couched in the following language:

SECTION —. No corporation engaged in the transportation of freight or passengers shall make any discrimination in charges for transportation of either freight or passengers of the same class larger in amount than is proportioned to the expense of such transportation, and no special rates shall either directly or indirectly be allowed, excepting for excursion or commutation tickets.

Now, sir, I call the attention of the Convention to the working of the section and the amendment of the gentleman from Dauphin (Mr. MacVeagh.) First, is the amendment of the gentleman from Dauphin (Mr. MacVeagh) a wise, wholesome, necessary and proper limitation to be imposed upon the railroads? Secondly, will it suppress the mischief complained of by the people, the passengers and shippers? I answer both these questions in the negative. I cheerfully concede that the gentleman from Dauphin (Mr. MacVeagh) has made a very ingenious, eloquent and able argument in favor of his amendment, but after giving due consideration to all he has said, I am forced to the conclusion that the amendment is impracticable and ought not to be adopted. The very touching, clear and masterly argument of the gentleman from Philadelphia (Mr. Cuyler) has shown that the amendment is neither proper nor wholesome as a limitation or regulation. It is true that the extent and character of the limitation of the amendment is very different from that of the section itself. The amendment limits the railroads in their charges for transportation of either freight or passengers of the same class to an amount proportioned to the expense of such transportation. It forbids discrimination in charges for transportation. This prohibition extends to all the freight and

passengers transported, whether citizens of Pennsylvania or freight of the State, or transported *within* or without the State. It is limitation on charges only.

Now, sir, I submit that this does not redress all the grievances complained of by the people. Nobody ever heard of the railroads charging one passenger more than another, although there may have been by special drawbacks some discrimination in the charges upon freight between shippers. The havoc which this amendment would make of the freight passing through the State and which has done so much to build up the State and to increase the taxes upon tonnage and shipping, forbids that it should adopt it. It, in my judgment, would prove mischievous, and fail to give the public substantial relief.

Such is the character and effect of the amendment of the gentleman from Dauphin (Mr. MacVeagh.)

What is the extent and character of the section itself? And I must be permitted to say in regard to the section itself as we now have it before us in the re-print of the standing committee, that it has been emasculated to such an extent, that if everybody did not know that that committee were the firm friends of reform in railroad management, we would be surprised at the surrender it makes to corporations of so much of the original vital power of the section as it originally passed the House. I say I am compelled to conclude that the change was supposed for the better, and intended for the *public* good and to *increase* the limitations upon corporations. But whatever may have been the cause of the change in the structure of the section it has lost by its recast its vigor and vitality. As it now stands, it prohibits a corporation engaged in the transportation of freight or passengers in or through this State, from making any discrimination in charges for the carriage of either freight or passengers of the same class between or against the people thereof, or from allowing, either directly or indirectly, special rates or drawbacks. This is no limitation upon the *amount* to be charged by the railroad for the transportation of either freight or passengers. Under this section they could charge the maximum rate allowed by their charters.

The only limitation contained in the section as it now stands is that the rates or amount charged for the transportation of a ton of freight for John Jones, or for the carrying of John Jones, shall be the

same as the amount charged for transporting a ton of freight for John Ward, or for the carrying of John Ward. The section is further pernicious. It licenses the railroads to charge reasonable extra rates for any distance not exceeding thirty miles from the place of shipment. Thus under this section the railroads could charge for the transportation of freight or passengers to the *extent* of the limits of their charter, while under the amendment of the gentleman from Dauphin (Mr. MacVeagh) they could charge only the actual costs of the transportation. Now, the section will not cripple the general growth, development and prosperity of the several roads as the amendment, and it is more practical in its application and will suppress the mischief to a greater extent. The amendment would prevent Pennsylvania forever from competing with roads outside of the State which have no such clogs upon them, and it would drive our new line of steamships from the harbor at Philadelphia and turn them over to Baltimore or New York. There are some limitations upon the power and practices of railroads which the people expect to have put in the organic law, and unless we place them there we will have failed to execute the trust imposed in us by the people. I want to say here and now that I have and will vote to secure the rights of the people, and prevent monopolies of every nature, kind or description.

The people have fears as to the future in regard to the power of corporations in the Legislature and the courts, and therefore they want to put the Constitution between them and the law-making and law-adjudicating power of the Commonwealth.

It must be plainly written in the Constitution, that railroads are common carriers, so that the law as now settled cannot be overturned in this particular as to railroads. It must be also plainly written in the Constitution that railroads are public highways, so far as to compel them to transport both persons and property under such reasonable regulations as the safety and convenience of both parties demand. And it must be written in the organic law, that there shall be no discrimination between or against persons or transportation companies shipping of goods over these public highways, nor in charges as to persons or companies, nor any undue or unreasonable rates or charges, nor exemption from taxation, nor withholding the inspection of the

books of such corporations by the officers from the stockholders, nor leasing or purchasing or controlling competing lines, nor the formation of transportation companies out of the principal officers of said road, nor to water their stock. The right of individuals and of companies to build railroads whenever they may desire under such regulations as may be prescribed by general laws, must become a constitutional right.

And the power of corporations to purchase and hold lands must be limited. The extent of their power to purchase and hold lands must be limited to so much as is necessary for the proper and legitimate business for which they were created. The Constitution must impose such restraint and limitations as will require the corporations to practice *uniformity* and *equality* in every particular in their business with the public, having due regard to all the circumstances of the case. Having fixed these fundamental rules, the further regulations of corporations can be safely left to the beneficent maxims of the common law, which guards person and property with a minute care unequalled by any other rules or regulations ever conceived by man. This done, and we will have met public sentiment, and given such a wholesome and wise article upon this subject that they who clamor to "go back to the fish which they (we) did eat in Egypt, the cucumbers, the melons, the leeks, the onions and the garlic," will be buried beneath the wave of a just public opinion in favor of the article, to rise no more. The opinions and feelings of the people are entitled to respect, and their recollections of the past will enable them to judge correctly of our work. I have said this much here and now, because I have not heretofore taken the time of the Convention on this matter from other members, and because I believed it due to myself, to the people and to the subject-matter of the article.

Mr. H. G. SMITH. Mr. President: I have not troubled the Convention with any remarks upon this question, although it is one upon which I have thought not a little. It is a comparatively new question; but we all know how it has agitated the people of this country. We have seen it arise under various aspects in our own State from time to time, and have had example after example of its operation. That there are evils in railroad management, who will deny? Within a few years past monopolies have laid their

iron hand upon three of the great interests of this Commonwealth, upon the coal, the lumber, and the oil of Pennsylvania. We know how the people protested against invasions of what they considered to be their rights. Their protests against the abuses of railroad management have come up from every direction and in every form, and they do demand that this Convention shall go as far as it safely can go to remedy evils, the existence of which cannot be denied or concealed.

I confess that in looking this question in the face, in its various aspects, I have been puzzled greatly. I remember a scene which transpired in the Senate of this State a few years ago. It was when a combination among certain railroads had caused a complete suspension of labor in the anthracite coal region. The people complained. From every quarter of this Commonwealth came up their cry; and I remember well how Senators rose upon their feet in that body and declared that they, the representatives of the people, had not surrendered the power to control railroad companies, and to correct the evils complained of by the people. I heard one of the most distinguished members of that body make such a declaration, and when I went to his seat and asked him how the law of the State stood, in view of the decision in the Dartmouth college case, and the precedents running down from that time, he still protested that the power to remedy all the evils complained of did exist in the Legislature of Pennsylvania. Two minutes after he had taken his seat a Senator who made no concealment of his devotion to the interests of corporations said: "There is no man on this floor who has done so much to advance the power of corporations as the gentleman who has just taken his seat." This brought my friend to his feet again, and he repudiated the accusation with indignation. Bland was the smile of the accuser as he replied: "I charge the Senator with nothing wrong. I merely call to mind the fact that he is oldest in senatorial position, and that he has favored and voted for more railroad charters than any one of his colleagues." That was the truth and that was the trouble. He had voted for more corporate grants than any other Senator, and had voted for most liberal grants of this kind. Therefore, from the very effect of his action, he had of necessity done more to bring about the State of

affairs which he denounced than any man in the Senate. Need I say that the voice of my distinguished friend was silenced? Need I remind members of this Convention that the Legislature confessed its want of power to afford any relief.

Sir, in this Commonwealth and elsewhere the people have been most liberal in their grants of power to corporations. Evils have come from these grants, evils which demand a remedy, and the only questions are how shall we meet the evils and what remedy shall we apply? I do not wonder at the long and protracted debate we have had upon these questions. They are difficult questions to meet, because they are new, because they involve interests so vast and so far-reaching. The very point now before us has been confessed to be one of the most perplexing, and I have waited patiently to see who would find a safe way out of the difficulties which environed us. I have examined carefully the various propositions which have been offered, and I find clearly enunciated in that now presented by the gentleman from Dauphin (Mr. MacVeagh) a principle which is correct throughout. His proposition rests upon the immutable laws which ought to govern trade, which ought to control the transactions of every transportation company in this Commonwealth without the enactment of any law on the subject and without the declaration of any principle in this Constitution. But, in order that we may write down here what is the right of the people on the one hand and what shall be within the power of corporations on the other, we propose to do something in this matter. Whatever we do should be warily and wisely done, and our decision ought to be founded upon correct principles of political economy.

Now, sir, what does this proposition say? "No corporation engaged in the transportation of freight or passengers shall make any discrimination in charges for transportation of either freight or passengers of the same class, larger in amount than is proportional to the expense of such transportation." That, sir, is a clear, distinct enunciation of a correct principle. If it be lived up to, if it be enforced, it will correct all the evils complained of. And, sir, it will not, in my judgment, do what the distinguished gentleman from Philadelphia (Mr. Cuyler) declared it would do—it will build no wall of brass around this Common-

wealth; it will not prevent our great through lines from carrying freight from beyond our borders through the State, because the limitation runs in one direction only. It says that the charge shall not be larger in amount than is proportioned to the expense of the particular transportation.

The expense of through transportation being less than that of local transportation, the proportionate charges will be less. The railroad companies will be left at liberty within proper limits to carry through freight at lower rates than they carry local freights, but they will be compelled, by the amendment as it stands, to do equal and exact justice to all. In my judgment, the amendment offered by the gentleman from Dauphin embraces all of good that is contained in the fourth section of the original article. The limitation there sought, so far as right and reasonable, will be reached by the adoption of the language which is proposed here. But the proposition of the gentleman from Dauphin goes further and declares that persons and property transported on any railroad shall be delivered at any station within the State at charges not exceeding those charged for persons or property of the same class in the same direction to any other station. I think, taking the two things together, the enunciation of the principle and the limitation contained in the concluding words, that this is as far as the Convention ought to go; but I think it ought boldly to go that far.

Mr. MINOR. Mr. President: The simple question, as I understand it, presented to us now for adoption is this: whether the discriminations we allow to railroads shall be based upon the single item of expense of transportation; and I will address myself to that proposition.

In looking it over I am unable to come to the conclusion that it is a basis which would work justice either to the companies or to shippers. In the first place it is a basis that is not uniform any six months of the year; neither is it uniform as to different kinds of freight. Let us illustrate.

In summer time you may often send cars over a given distance fully loaded, at a less rate than the same cars can be sent over the same route in winter time empty.

Again, cars often go loaded one way and nearly empty the other for months at a time, or even the whole year, on account of the nature of the article carried, as oil

or coal, or changes in the current of trade or other causes.

Now, in all these cases expense may be the same or it may be greater one way than the other—depending upon grade and a thousand other conditions—and yet not furnish a complete basis for changes.

It may be and often is an object to the railroad companies to take and the shippers to send goods in cars usually empty at less rates than are proper for loaded cars.

If the shipper can get certain rates he can afford to send at intervals in the year, whereas if he must always pay the highest freight proper at other times his goods must remain at home. All parties thus lose.

Surely this is a Procrustean bed which would fit some, cut off the limbs of others and stretch out others to their lasting injury.

It is quite true that expense of carriage only is an element in estimating what is a proper basis, but it is and always must be incomplete as an exclusive guide to even-handed justice to any party concerned.

Again, sir, what is embraced in the terms "expense of transportation?"

Is expense of construction embraced in it or is it not?

If it is not embraced then great injustice will be done. For instance, one railroad in one part of the State fifty miles long is built upon comparatively level ground at an expense of ten thousand dollars per mile. Another in the other end of the State is built the same length through mountains with deep cuts and fills and long tunnels at an expense of millions per mile. Both when completed are level, and the current expense of carriage the same on one side as the other. Now, sir, when we reckon the capital invested, one road would make money at the same rate of receipts under which the other would lose. Surely there is a fatal defect in the proposed basis. Again, one road brings out another and lets it lie useless. Its stock or property is increased, but current expenses not. Shall this be embraced?

We might thus go on almost *ad infinitum* hunting a place to rest, and never be able to say "Eureka," I have found it.

Rather than put this in the organic law of the State so that it must constitute the unyielding rule, it would be better to leave the subject to the Legislature.

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By opposing this proposed substitute, I would not be understood as favoring in full the fourth section which it is designed thus to remove.

That section contains a very important principle, but its last clause practically nullifies much of its value by allowing extra rates within thirty miles from places of shipment. Right there has been found in my own section the opportunity for many of the worst oppressions and discriminations which we have suffered; but I postpone further remarks upon that point till it arises in more direct form.

Mr. J. M. BAILEY. Mr. President: Before the vote is taken on the amendment of the gentleman from Dauphin (Mr. MacVeagh) I desire to make a single suggestion to the Convention upon this subject. I agree with most of the delegates who have spoken, that the principle laid down in this amendment is probably correct, but there seems to be serious doubts as to whether it can be practically applied. And therefore, believing as I do, that the section as it now stands would permit a similar system of freight charges as that expressed by this amendment, I shall be obliged to vote "no" on this proposition.

The section, as it now stands, reads that "no corporation engaged in the transportation of freight or passengers in or through this State shall make any discrimination."

Consider for a moment what system of charging would be a violation of this section. It would, of course, be a violation of it to charge different people different rates for shipping the same class of goods the same distance; of course it would be discrimination under it, to charge more in the aggregate for shipping the same quality of freight a shorter distance than a longer one, and probably it would be against the spirit of the section to charge a shipper who lives in Huntingdon a higher rate for his shipment from Philadelphia than one who lives in Pittsburg. But in my view it would be no discrimination, and therefore not be in contempt of this section for railroad companies to add to all shipments an additional charge—which must be uniform—to their regular mile rates, for depot expenses such as loading and unloading cars and probably for the delay of the car. Whatever these charges be they must be uniform.

By the application of such a system of charging, or something like it, the charges for delivering freight or passengers to any

station never possibly could exceed the charges for transportation of the same class to any more distant station, which renders the last provision in the amendment wholly unnecessary. Under the section, all that is required is that charges, under whatever system they be made, must be uniform. For my part, I am content with that, and I think the carrying companies should ask nothing more.

Let us see how such a system of freight charges as I have suggested would work out. Suppose the rate for carrying a certain class of freight be one cent per mile, and it be carried two hundred miles, the charge then for the carrying would be two dollars; to this the company should add, as I hold they are permitted to do, preserving uniformity, something for depot expenses, which, for the sake of my illustration, I will put down at fifty cents; the whole charge then for delivering that freight the two hundred miles would be two dollars and fifty cents.

Now, suppose the same class of freight be carried one hundred miles, the charge for carrying at same rate of one cent per mile would be one dollar, to which add the same depot expenses as before, and I am certain no good reason can be given why they should be more at the termini of one hundred miles than two hundred miles, and you have one dollar and fifty cents as the cost for delivering the one hundred miles. Now, I hold that such a system of charging freights would not be prohibited by the provisions of this section without any amendment. As the establishment and regulation of a system of charges something like I have mentioned is left entirely to the control of the corporations, I cannot conceive how they would in any manner be injured by this section, if they were disposed at all to be fair.

I am of the opinion then that the section itself contains all that is contained in the amendment of the gentleman from Dauphin, (Mr. MacVeagh,) and I shall therefore vote against the amendment, hoping the section will stand as it now is, with the last clause stricken off, which I believe to be unsound and unfair.

The PRESIDENT. The question is on the motion of the delegate from Dauphin.

Mr. MACVEAGH. I call for the yeas and nays.

Mr. HUNSICKER. I second the call.

The yeas and nays were taken, and were as follow :

Y E A S.

Messrs. Ainey, Alricks, Armstrong Bally, (Perry,) Baker, Bannan, Bowman, Broomall, Brown, Calvin, Carter, Clark, Elliott, Fulton, Guthrie, Hazard, Horton, Hunsicker, Lawrence, Littleton, MacConnell, MacVeagh, M' Michael, Mann, Niles, Palmer, G. W., Patterson, T. H. B., Porter, Russell, Smith, H. G., Smith, Wm. H., White, Harry, White, J. W. F. and Walker, *President*—34.

N A Y S.

Messrs. Andrews, Baer, Bailey, (Huntingdon,) Barclay, Biddle, Bigler, Black, Boyd, Brodhead, Buckalew, Campbell, Carey, Cassidy, Church, Cochran, Corson, Cronmiller, Curtin, Cuyler, Darlington, De France, Dunning, Edwards, Ellis, Ewing, Funck, Gilpin, Harvey, Hay, Hemp-hill, Howard, Kaine, Knight, Landis, Lilly, M'Camant, M'Clean, M'Culloch, M'Murray, Manter, Minor, Mott, Newlin, Parsons, Patterson, D. W., Purman, Purviance, John N., Purviance, Samuel A., Read, John R., Reynolds, Rooke, Ross, Runk, Smith, Henry W., Stanton, Turrell, Van Reed, Wetherill, J. M. White, David N., Woodward, Worrell and Wright—62.

So the motion was not agreed to.

ABSENT.—Messrs. Achenbach, Ad-dicks, Bardsley, Barr, Bartholemew, Beebe, Bullitt, Collins, Corbett, Craig, Curry, Dallas, Davis, Dodd, Fell, Finney, Gibson, Green, Hall, Hanna, Heverin, Lambertson, Lear, Long, Metzger, Mitchell, Palmer, H. W., Patton, Pughe, Reed, Andrew, Sharpe, Simpson, Stewart, Struthers, Temple, Wetherill, John Price and Wherry—37.

Mr. ROOKE. I move that the Convention now resolve itself into committee of the whole for the purpose of amending the article by striking out section four and inserting the following in lieu thereof:

"And no corporation engaged in the transportation of freight or passengers in or through this State shall make any unreasonable or unjust discrimination in charges for the carriage of either freight or passengers between or against the people thereof, and no special rates or drawbacks shall, either directly or indirectly, be allowed to one that is not allowed to all; and the Legislature shall pass laws to correct abuses."

Mr. EDWARDS. On that motion I call for the yeas and nays.

Mr. STANTON. I second the call.

Mr. HOWARD. This amendment has left out a very important matter that was inserted in the section, I think, in its present form, or at any rate in the form in which we now find it by the Convention after very considerable discussion, and that is excursion and commutation tickets. We know that that is a special class of tickets, apart from the general tickets that are issued to various points in the Commonwealth, and in fact to all points, perhaps. The section now offered by the delegate from Union is very defective and very objectionable in not making that exception.

The question being taken by yeas and nays resulted as follows :

Y E A S.

Messrs. Ainey, Armstrong, Baker, Bannan, Barclay, Barr, Bigler, Black, Howman, Boyd, Brodhead, Broomall, Carey, Cassidy, Clark, Corson, Cronmiller, Curtin, Cuyler, Darlington, Dunning, Edwards, Elliott, Hunsicker, Kaine, Knight, Lilly, Littleton, M'Clean, M'Michael, Mann, Niles, Parsons, Porter, Pughe, Read, John R., Rooke, Runk, Smith, Wm. H., Stanton, Turrell, Van Reed, Wetherill, J. M., White, J. W. F., Woodward, Worrell and Walker, *President*—47.

N A Y S.

Messrs. Achenbach, Alricks, Andrews, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Beebe, Biddle, Brown, Buckalew, Calvin, Campbell, Carter, Church, Cochran, De France, Dodd, Ewing, Fulton, Funck, Gibson, Gilpin, Guthrie, Hall, Harvey, Hay, Hazzard, Hemphill, Horton, Howard, Landis, Lawrence, MacConnell, MacVeagh, M'Camant, M'Culloch, M'Murray, Mantok, Minor, Mott, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Purman, Purviance, John N., Purviance, Samuel A., Reynolds, Russell, Smith, H. G., Smith, Henry W., White, David N., White, Harry and Wright—54.

So the motion was not agreed to.

ABSENT.—Messrs. Addicks, Bardsley, Bartholomew, Bullitt, Collins, Corbett, Craig, Curry, Dallas, Davis, Ellis, Fell, Finney, Green, Hanna, Heverin, Lamberton, Lear, Long, Metzger, Mitchell, Palmer, H. W., Patton, Reed, Andrew, Ross, Sharpe, Simpson, Stewart, Struthers, Temple, Wetherill, John Price and Wherry—52.

Mr. BIGLER. I move that the Convention resolve itself into committee of the whole for the purpose of inserting the following as a substitute for section four :

"The charges for transporting freight and passengers of the same class shipped from and consigned to the same station shall be alike to all, and so also between all intermediate and terminal stations; and no railroad company transporting freight from other States into, through or out of this State, shall make any undue or unreasonable discrimination in its charges upon such freight and that local to the State, nor charge a greater sum for a shorter than a longer distance in the same direction; but nothing herein contained shall prevent the granting of excursion or commutation tickets at special rates."

I will explain this amendment in a very few words, and then let it take its fate. I can do nothing less in justice to my own views on this subject than submit it.

The first clause regulates the freight within the State from station to station; from Philadelphia to Lancaster; from Lancaster to Harrisburg, and from Harrisburg to Pittsburg, or from one terminal station to the other; that is, from Philadelphia to Pittsburg, and in all these and between them it would require perfect equality. It would therefore meet the complaint that one man is charged more than another between the same stations on the same freight. That is rather a wide-spread complaint.

Now, sir, as for the other branch of the amendment, which undertakes to regulate the tonnage that comes from without into the State and through the State, it is very similar to those propositions that have been presented heretofore. I have thought that some qualification, some reasonable discrimination there was indispensable, or else you would absolutely break down the commerce of this State; you would make your great railroad here powerless at the competing points in the west; and, as I said yesterday, that this railroad should compete for that business was perfectly well understood when it was organized. It was its great purpose when it was organized, and I commend it for carrying out that purpose, at the same time that I complain of other things which it has done. I regret very much its dangerous, wide-spread policy. But, sir, I must insist that some discrimination is absolutely necessary, and it is fur-

nished here in the words "undue and unreasonable," as between the local and the foreign tonnage. That proposition will do equal justice to owners and transporters within the State. It will give a shade of discretion as to the tonnage from without. I do not know how we can get along without that.

Then there is another restriction to meet the complaint which we have heard here of higher charges for a shorter distance than were paid for a larger distance, and it has been said that that discrimination has been carried on to a very unreasonable extent.

These, sir, are the points of the amendment. This is not only a declaration, but the practical form is before you. It can only do just what is on the face of it, neither more nor less.

Mr. CUYLER. Mr. President: I should be satisfied, with the views that I entertain of what would be just to the railroad interests of the State, to vote for the proposition which is submitted with one single qualification. I desire in a few words to state that qualification and the reasons for it. At the first blush it will not impress the Convention favorably, but I hope reflection will show them that I am correct.

This amendment contains a provision, absolute, inflexible and of universal application, that no charge shall ever be made that is higher for a shorter than a longer distance. Now, sir, there are certain circumstances that must commend themselves to the judgment of thinking men where such a charge must be proper. Inequality is the very law of railroad life. The grades differ between different points. It requires a larger expenditure of motive power on some grades. The engine has less power in overcoming heavy grades than light grades. There are instances where stations removed less than two miles from each other have excessive grades interposed between them, where the cost of transportation is largely increased. For example, the carriage of freights between two points on the ascent of the Allegheny mountains, as compared with two points upon any level along the road, will show that in one case the cost of carrying freight is much greater than in the other. Again, the cost of the carriage of freight from one station to another, although in the same direction and for the same distance, will vary materially between a station where there is little business and another station which per-

haps may be a terminal one. In the one case the station charges and the station expenses have to be divided among a small number of customers, and attached to a less amount of business. The burden on an individual is fairly larger in this case than it would be where the amount of charges would be divided among a much larger amount of business. These are instances where inequality may and ought to well exist.

Mr. BIGLER. If the gentleman will allow me one moment, I desire, in order to obviate the difficulty that he has suggested, (and indeed the amendment was written so in the first instance,) to change the language of my proposition so far as to say, "including the shorter distance."

Mr. CUYLER. That would obviate a part of the difficulty. If we can substitute for these words "a larger proportion of profits" or something to that effect, then it would be reasonable as between these two stations, such as I have suggested to the consideration of the Convention. The rate of price would not be larger between one of them than the other. While this amendment will not be all that I think the railroad interests of the State could desire, yet I think they could live and prosper under it.

Mr. BUCKALEW. I shall vote for the amendment offered by the gentleman from Clearfield. One remarkable feature of this fourth section, which I cannot understand, is, if I may use a solecism, that it is remarkable for what it does not contain. After all that has been said upon this subject in the Convention, after all our repeated votes, it does not contain at all the clause that charges shall not be greater for a shorter than for a longer distance. That is wholly omitted from this section, and I understand that that was one of the principles of the proposed reform in railroad matters. The delegate from Clearfield has included that feature and he has also included the limitation of the provision reported by the committee of seven to extend to extra-territorial State traffic. That is, he confines the application of these words "undue and unreasonable" to the transportation of tonnage beyond our State, so that, as I understand it, it could have no application to our internal State trade. To my understanding this amendment comes nearer to a proper and sensible solution of this whole subject than the section, and I shall therefore vote for it. Certainly the fourth section now contains a number of princi-

ped points on which we are all agreed, and I believe the addition of this amendment will make it more effective.

Mr. HOWARD. If there was but the one single objection that I am about to state to that proposition, (amendment offered by Mr. Bigler,) it seems to me it should defeat it at once. It will allow the railroad companies of this State to charge for transportation for five miles as much as they charge for the whole length of the State. That is the proposition. For instance, if a man ships from Philadelphia to a particular station, they shall charge all persons shipping from Philadelphia to that particular station the same rate that they are charging for shipments from Philadelphia to Pittsburg, no matter what the distance between Philadelphia and that particular station be. They would have the right to charge under the Constitution the same rate of freight, and charge the same price for passengers between Philadelphia and Lancaster that they would have between Philadelphia and Pittsburg; and they would have the right to charge the same rate of freight charged between Philadelphia and Pittsburg to the first station on the railroad. They would have the right to charge the same price between Philadelphia and any near station that they would have to charge between Philadelphia and Erie. They could charge precisely the same under this section. There is no doubt about it. I have examined the section carefully, and that is precisely what it is; that is, that if I have to ship freight to a particular station, the freight may be charged at the same price as if we shipped to the most distant station on the road. There is no doubt about it. That is what it means.

Mr. BUCKALEW. I would like to ask the gentleman a question on one point. Does he not know that the result about which he talks is practically impossible, because the company in its charges is limited by the maximum of its charter.

Mr. HOWARD. This fourth section, by preventing discrimination, regulates the rate of freight, so that it requires something to be charged in proportion to the distance; but this amendment only fixes the charges between the community, as I stated, allowing the railroad company to make whatever charge they please on a shorter distance. They may make any charge they please on the longer distance, so that the charge is uniform for freights on that same distance.

Mr. BIGLER. Let me tell my friend from Allegheny that for the purpose of guarding against the objection raised by him, the amendment sets out with a proposition that freight shipped from and consigned to the same station shall be alike to all. Now, it would be from Philadelphia to Lancaster so much, and then at the same rate between intermediate stations in proportion to the rate, whatever that may be, between the terminal stations, that is, from Philadelphia to Pittsburg. There can be no discrimination under that amendment.

Mr. HOWARD. That is certainly no answer to my objection. It certainly does provide that when freights are shipped from one station to a particular station that all freights to that station shall be the same. It does provide for that, but it does not provide at all against charging the same for ten miles that they charge for three hundred miles. That is the objection I make to this amendment. I restate it, that the railroad companies must undoubtedly carry all freights from Philadelphia to Pittsburg of the same class for the same rates; but it does not state that they shall charge less to Lancaster than they shall to Pittsburg, nor does it provide any principle by which that is to be regulated at all. Therefore it is by all means the worst proposition that has been made to this Convention. It is not at all surprising that it meets with one slight exception the approval of the delegate from Philadelphia (Mr. Cuyler.) He says he can support this cordially with one slight exception. Certainly the people of the Commonwealth do not want to support it.

Mr. DODD. Neither the original section nor any amendment yet offered suits me, nor am I able to draw a section that suits my purpose. The pending amendment will not meet the difficulties under which my section labors. It is charged—I do not make the charge myself—but it is charged upon a railroad company running through the oil regions that it will not without delay transport oil delivered at the railroad stations by the various pipe lines, unless it is interested in the line. Oil is transported in pipe lines from the various wells to the railroad. It is said that whenever a new pipe line is built, it is necessary that somebody connected with this particular railroad company shall be presented with stock in that pipe line, or else the railroad company will not furnish cars without

tedious and unnecessary delay. This is a discrimination which should be stopped.

Now, if a certain pipe line sends its oil to a station on the railroad to be shipped, say to Pittsburg, and if there is a competing pipe line shipping oil to a railroad station only a mile further away from Pittsburg, I cannot see what there is in this amendment to prevent discriminations which will be ruinous to the competing line at the greater distance. If it was a shorter distance I grant it could not be injured by discriminations, but if it is a longer distance, if only one mile, what is there here to prevent discrimination by the railroad company? I am told that discriminations are now made to so great an extent as to be ruinous to certain companies, unless the railroad companies' officers are given a bonus. That is the evil under which we labor. I do not know how to cure it, but it must be cured somehow. I think that the best thing we can do is to fall back on section three of the report of the special committee of seven. I do not think that section is all it should be, but I do believe it will meet my views better than any amendment yet offered.

Mr. BAER. The fourth section as it now stands before the Convention has the "shorter distance" clause stricken out and with that stricken out, the section is even more offensive to me than it was originally. I am glad to find that the amendment of the gentleman from Clearfield will enable me, for one, to vote for his substitute for the fourth section, and I am free to say that if that is voted down, then, if nobody else does, I shall vote to insert section third of the report of the special committee of seven with the words, "undue or unreasonable" in it, as the nearest approach to anything like a just principle that I am now able to procure. We have been wandering around from day to day trying to improve section four, and in my opinion we are making it continually worse. Every amendment that has been made to it has made it more objectionable than it was before, and for one, I am now ready to vote for the amendment of the gentleman from Clearfield, hoping that it will carry. If it does not, I shall then vote to strike out section four of the present article, and to substitute the third section reported by special committee of seven.

Mr. MACVEAGH. I trust that whatever else this Convention does, it will not stultify itself by adopting this fourth section of the original report, as now re-

printed and on our tables, for whatever else may be a delusion and a share, that section, as now re-printed, certainly merits those epithets. If there is a lawyer of respectable standing on this floor who will rise and say that he has given it careful study and cannot drive a coach and four through it, north and south and east and west, I would like to hear from him. There are good lawyers in this body, and I challenge any man to put his reputation on the record of these Debates by saying in a court of justice that that section, as now re-printed, is worth a penny to restrain the railroad companies of this State. Gentlemen, do not let us deceive ourselves, even if we deceive the people. That section means, if it means anything, in judicial construction, as now re-printed, that when John Brown and John Smith go to a railroad company, John Brown shall receive the same treatment for the same thing as John Smith. That is all it means. That is the beginning and the end of it. In all the charges made against mistaken railroad management in this State, in many of which charges I have freely concurred as I concur in them to-day, no man has charged any railroad company with having made for John Brown a different charge specifically, as an individual, from the charge for John Smith.

To that ridiculous result we are asked to come as a remedy for the evils which have been portrayed for months on this floor. Now, as I said twice over, I take the liberty to weary the patience of this body by venturing to repeat a third time. One of two things you can do. Put a constitutional standard of discrimination in your organic law, or leave it out; but you cannot write wishy-washy trash and expect courts of justice to develop out of it a constitutional standard of discrimination.

If the standard I propose is not wise, take another; or, take two or three in combination; or decide to have none; but do not in using language which these corporations will bring to the test of judicial construction, use language which no lawyer can venture to affirm does contain a constitutional standard of discrimination.

Now, where are we? I cannot vote for the amendment offered by the distinguished delegate from Clearfield, (Mr. Bigler,) because I do not believe that it goes quite far enough in remedying the evils of which gentlemen have complain-

ed. It does seem to me that with one or two verbal changes we can put a constitutional standard more distinct than is contained in the words "undue and unreasonable" in the Constitution, but do not confine it in any event to a pure question between individuals. That is striking at an evil that never existed. The discrimination is against localities, against trades, against interests, against justice. Give us something that reaches that evil. No discrimination was ever made between the humblest black man in the land, in any day in the history of this country, and the President of the United States, as individuals, only as classes, by any railroad company. We do not need to write into the fundamental law that no such discrimination shall be made in the future because some such has even been made in the past.

Why, even the little marrow there was in this fourth section is left out of it. It had one provision in it that at least did this much. It said that you must not charge more for a longer than for a shorter distance, but they actually struck that out. This section as it now stands is mere froth, mere bosh. There is no substance in it, and no possibility of construction remains behind it. Now, why should we do such things? If we can get no more, then give us at least a definition something like that in the third section of the report of the committee of seven, of which the gentleman from Somerset spoke, as better certainly than this indefinite, trashy and utterly worthless section.

The PRESIDENT. The question is upon the motion of the gentleman from Clearfield.

Mr. BIGLER. On that question let us have the yeas and nays.

Mr. HOWARD. I second the call.

Mr. BUCKALEW. Let us have the amendment read.

The CLERK read the proposed substitute as follows:

"Charges for transporting freights and passengers of the same class shipped from and consigned to the same station, shall be alike to all, and so also between all intermediate and terminal stations. And no railroad company transporting freight from other States into, through, or out of this State, shall make any undue or unreasonable discrimination in its charges between such freight and that local to the State; nor charge a greater sum for a shorter than for a longer distance, including such shorter distance. But nothing

herein contained shall prevent the granting of excursion or commutation tickets at special rates."

The yeas and nays were taken and were as follow, viz:

YEAS.

Messrs. Armstrong, Baer, Barclay, Barr, Bigler, Black, Bowman, Boyd, Brodhead, Broomall, Buckalew, Carey, Curtin, Cuyler, Darlington, Dunning, Edwards, Elliott, Hall, Harvey, Hunsicker, Kaine, Knight, Lambertson, Lilly, M'Camant, M'Clean, Mann, Niles, Parsons, Porter, Pughe, Purman, Read, John R., Runk, Smith, Wm. H., Turrell, Wetherill, J. M., White, J. W. F., Woodward, Worrell and Walker, *President*—42.

NAYS.

Messrs. Ainey, Alricks, Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Beebe, Biddle, Brown, Calvin, Campbell, Carter, Church, Cochran, De France, Dodd, Fulton, Funck, Gibson, Gilpin, Guthrie, Hay, Hazzard, Hemphill, Horton, Howard, Landis, Lawrence, MacConnell, MacVeagh, M'Culloch, M'Murray, Mantor, Minor, Mott, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Purviance, John N., Purviance, Sam'l A., Reynolds, Russell, Smith, H. G., Smith, Henry W. Van Reed, White, David N. and White, Harry—48.

So the motion was rejected.

ABSENT.—Messrs. Achenbach, Addicks, Baker, Bardaley, Bartholomew, Bullitt, Cassidy, Clark, Collins, Corbett, Corson, Craig, Cronmiller, Curry, Dallas, Davis, Ellis, Ewing, Fell, Finney, Green, Hanna, Heverin, Lear, Littleton, Long, M'Michael, Metzger, Mitchell, Palmer H. W., Patton, Reed, Andrew, Rooke, Ross, Sharpe, Simpson, Stanton, Stewart, Struthers, Temple, Wetherill, John Price, Wherry and Wright—43.

Mr. MACVEAGH. I now move that the Convention resolve itself into committee of the whole in order to insert the following substitute in lieu of section four:

"All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State or coming from or going to any other State. Persons and property transported over any railroad shall be deliver

ed at any station within the State at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station."

It will be seen that this is the third section of the report of the special committee of seven, striking out the word "intermediate" and inserting "any," so as to avoid all difficulty about terminal stations. The last clause is also left out because it is supposed to be wholly unnecessary. If this amendment is voted in and anybody thinks that last clause of value, it can be put in separately, but it clearly, to my mind, is that much verbiage, and there is no necessity for it.

Mr. D. N. WHITE. If it is not put in you will not get any votes.

Mr. NILES. Put it in. It cannot do any hurt.

Mr. MACVEAGH. Then I will add it also.

The PRESIDENT. The Clerk will read the words to be added.

The CLERK read as follows:

"But excursion and commutation tickets may be issued at special rates."

Mr. MACVEAGH. I trust gentlemen will not vote yea or nay about a matter like this without some reflection. If my amendment is adopted and it is not satisfactory, it can still be amended in other respects. As I have already stated, the substitute which I have presented is the report of the committee of seven changed only by striking out the words "intermediate stations" and inserting the words "any stations," so as to avoid the question about terminal stations which has been made. Now, I offer this amendment and shall support it, not because it meets my views of what is desirable, but because for the reasons I stated I think it very much better in every sense than the section four in the article as it was reprinted and laid on our desks this morning.

Mr. WOODWARD. I want to ask the gentleman to accept another modification. "All individuals, associations and corporations shall have equal rights to have persons and property transported." Why not say, "shall have an equal right to transport."

Mr. MACVEAGH. I saw that difficulty, and I think the gentleman will see that it might limit it simply to persons in the business of transportation, and that is an evil to be guarded against, and therefore I prefer to leave that as it is.

Mr. S. A. PURVIANCE. I wish to ask the gentleman whether this substitute is any charge upon the report of the committee of fifteen except the insertion of the words "undue and unreasonable." Is not the same idea carried out in both sections?

Mr. MACVEAGH. The difference is just this, as I understand it: That the one is capable of a judicial construction that will be a limitation upon the railway companies as to places and as to special discriminations, and the other is in such vague language that my conviction is that it cannot be construed to be any valid limitation at all.

Mr. COCHRAN. Mr. President: While this question is pending I desire merely to suggest, without attempting to reply to the argument which has been brought against this fourth section in its present form, and in order to meet the objection which is made by the gentleman from Dauphin to this fourth section, that if this motion shall be voted down I shall move to insert in the section in the third line, after the word "the," where it occurs the second time in the line, "places or," before the word "people," so as to make it read, "the places or people," and also by inserting in the same line after the word "thereof" the words "nor shall a higher charge be made for a shorter distance than for a longer distance, including such shorter distance." That will make a discrimination as well between places as people, if that is a difficulty, and it will introduce the shorter and longer distance clause, the omission of which is said to have left this section meaningless.

Mr. MACVEAGH. I should like to ask the gentleman one question. Does he also propose to strike out what seems to be a perfectly senseless provision, and certainly will be senseless if these words are inserted, allowing them to charge more for three miles than for twenty-seven?

Mr. COCHRAN. That can be done afterwards. I do not want to complicate the question.

The PRESIDENT. The question is on the motion of the delegate from Dauphin.

Mr. ANDREW REED. Let the amendment be read.

The CLERK. The amendment is to strike out section four and insert:

"All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or un-

reasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State, or coming from or going to any other State. Persons and property transported over any railroad shall be delivered at any station within the State at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station; but excursion and commutation tickets may be issued at special rates."

Mr. T. H. B. PATTERSON. ["Question." "Question."] I have not said a word on this question since we have had it under consideration, and I ask merely to suggest to the Convention that the words "undue and unreasonable" are exceedingly objectionable, and under no circumstances ought they to be put in the Constitution. We have decided that question over and over again, and those words have been left out. I appeal to delegates not to put the source of unending law-suits into our Constitution. We have heard arguments here from morning to night on these very two expressions; and now are delegates going to risk putting that source of trouble into the Constitution that shall be the cause of unending law-suits? Let us leave this question without them, and let us put in something that will be definite, whatever it means; but do not put in something that means nothing or means everything, just according as courts or as legislators choose to interpret it. I ask delegates to pause before they accept this amendment, because it includes words which have been voted down in this Convention about one hundred times.

Mr. J. M. BAILEY. I rise to move that the Convention do now adjourn. ["No!" "No!"] I ask for the yeas and nays.

Mr. HUNSICKER. There is a motion before the House.

The PRESIDENT. It is moved that the House do now adjourn.

The motion was not agreed to.

Mr. J. M. BAILEY. I ask for the yeas and nays.

Mr. MACVEAGH. I second the call.

The PRESIDENT. The Clerk will call the roll.

SEVERAL DELEGATES. On what question?

The PRESIDENT. On the amendment.

Mr. J. M. BAILEY. I called for the yeas and nays before the decision was an-

nounced on the motion to adjourn, and it was seconded all around me.

The PRESIDENT. The Clerk will call the names of delegates on the amendment offered by the delegate from Dauphin (Mr. MACVEAGH.)

The yeas and nays were taken and resulted as follows:

Y E A S.

Messrs. Ainey, Armstrong, Baer, Bannan, Barclay, Barr, Bigler, Bowman, Boyd, Broomall, Buckalew, Carey, Curry, Curtin, Cuyler, Darlington, Dodd, Edwards, Elliott, Green, Hall, Horton, Hunsicker, Kaine, Knight, Lamberton, Lilly, MacVeagh, M'Clean, Mann, Niles, Parsons, Patterson, D. W., Porter, Pughe, Read, John R., Reed, Andrew, Runk, Smith, Wm. H., Turrell, Wetherill, J. M., White, J. W. F., Woodward, Worrell and Walker, *President*—46.

N A Y S.

Messrs. Achenbach, Alricks, Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Beebe, Biddle, Calvin, Campbell, Carter, Church, Cochran, De France, Ewing, Fulton, Funck, Gibson, Gilpin, Guthrie, Hay, Hemphill, Howard, Landis, Lawrence, MacConnell, M'Culloch, M'Murray, Mantor, Minor, Mott, Newlin, Palmer, G. W., Patterson, T. H. B., Purman, Purviance, John N., Purviance, Sam'l A., Reynolds, Russell, Smith, H. G., Smith, Henry W., White, David N. and White, Harry—43.

So the motion was agreed to.

ABSENT.—Messrs. Addicks, Bardsley, Bartholomew, Brodhead, Brown, Bullitt, Cassidy, Clark, Collins, Corbett, Corson, Craig, Cronmiller, Dallas, Davis, Dunning, Ellis, Fell, Finney, Hanna, Harvey, Hazzard, Heverin, Lear, Littleton, Long, M'Camant, M'Michael, Metzger, Mitchell, Palmer, H. W., Patton, Rooke, Ross, Sharpe, Simpson, Stanton, Stewart, Struthers, Temple, Van Reed, Wetherill, Jno. Price, Wherry and Wright—44.

The Convention accordingly resolved itself into committee of the whole, Mr. J. W. F. White in the chair.

The CHAIRMAN. The committee of the whole have had referred to them the article on railroads and canals, for the purpose of inserting an amendment to the fourth section, which will be read by the Clerk.

The CLERK. The amendment is to substitute for the fourth section the following:

"All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State, or coming from or going to any other State. Persons and property transported over any railroad shall be delivered at any station within the State at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station; but excursion and commutation tickets may be issued at special rates."

The CHAIRMAN. The amendment is accordingly inserted.

The committee rose, and the President having resumed the chair, the chairman (Mr. J. W. F. White) reported that the amendment had been made to the fourth section as directed by the House.

THE SCHEDULE.

Mr. D. W. PATTERSON. I rise to make a motion of privilege. I move that the report on schedule be re-committed to the Committee on Schedule. We find omissions which ought to be corrected, I made the report as we thought we should have no other business to-day.

The PRESIDENT. Shall the gentleman have leave to make the motion? ["Aye." "Aye."] Is there unanimous consent that the report be re-committed? ["Aye."] It is re-committed to the Committee on Schedule.

SEVERAL DELEGATES. Orders of the day.

The PRESIDENT. The hour of three having arrived, the Convention stands adjourned until to-morrow at half-past nine o'clock.

ONE HUNDRED AND SEVENTY-SECOND DAY.

FRIDAY, October 24, 1873.

The Convention met at half-past nine o'clock A. M., Hon. John H. Walker, President, in the Chair.

Prayer by Rev. J. W. Curry.

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

MEMORIAL.

Mr. PATTON. Mr. President: I have received from General Patton, of Bradford county, a memorial addressed to the President and members of the Constitutional Convention, which I desire to have read.

It is short and comprehensive, and treats upon a subject of great interest to a large class of our people, viz: the rate of interest.

The Convention spent much time in its discussion and still left the question where it found it.

Let us listen to what our memorialist has to say upon the subject.

The CLERK read the memorial, which protests against the final adoption of the measures which have passed the Convention on second reading in relation to the rate of interest; and it was ordered to lie on the table.

DISTRIBUTION OF DEBATES.

Mr. NEWLIN. I rise to a privileged question. I desire to move a reconsideration of the resolution which was adopted on my motion last Friday by which twelve copies of the new edition of the Debates were ordered to be given to each member. I make this motion by direction of the Committee on Printing. The twelve copies would take up the whole of this edition, and after making allowance for the Debates that go to the families of deceased members and members who have resigned and have received their first, second or third volumes, there would not be enough volumes left to remain in the State library to be the subject of exchange between the different public libraries of the country. I ask that the resolution be reconsidered by unanimous consent,

and then I shall move to make the number ten instead of twelve, which will leave all members plenty of copies.

The PRESIDENT. Will the Convention unanimously agree to reconsider that resolution? ["Aye." "Aye."] It is agreed to.

Mr. NEWLIN. I now move to amend the resolution so as to make the number of copies ten instead of twelve.

Mr. DARLINGTON. I think it would be better to let it stand now as I originally introduced it; that is, refer the matter to the committee and let them act upon it.

Mr. NEWLIN. No; the committee have acted upon it and we want to dispose of it now.

The PRESIDENT. The question is on the resolution making the number ten copies.

The resolution as amended was agreed to.

LEAVE OF ABSENCE.

Mr. HAY asked and obtained leave of absence for himself for a few days from Monday next.

Mr. BAER asked and obtained leave of absence for himself for a few days from Monday next.

Mr. BRODHEAD asked and obtained leave of absence for himself for a few days from Monday next.

Mr. NILES asked and obtained leave of absence for Mr. Bowman until next Wednesday morning.

Mr. H. W. SMITH asked and obtained leave of absence for himself for next Monday and a few days thereafter, in case he should find it necessary.

Mr. BROOMALL. I ask leave of absence for myself until Monday, seeing a resolution about to be offered for a session tomorrow. [Laughter.]

Leave was granted.

Mr. HALL asked and obtained leave of absence for Mr. Fulton for a few days from Monday.

SATURDAY SESSION.

Mr. Wm. H. SMITH. I offer the following resolution:

DEBATES OF THE

Resolved, That this Convention will hold a session from nine and a half o'clock A. M. until three P. M. to-morrow—Saturday.

I hope the resolution will pass. It is the only thing that will save this Convention from running its sessions into week after next. I call for the yeas and nays on the resolution.

The PRESIDENT. There is nothing now before the body. The question is, shall the resolution be read a second time.

Mr. W. H. SMITH. I call for the yeas and nays on that.

Mr. DE FRANCE. I second the call.

The yeas and nays were taken and the result announced as follows:

YEAS.

Messrs. Achenbach, Ainey, Alricks, Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Barclay, Bardsley, Barr, Beebe, Bigler, Black, Campbell, Carter, Collins, Corbett, Cronmiller, Curry, Darlington, De France, Edwards, Guthrie, Hall, Hay, Hazzard, Landis, Lawrence, MacConnell, M'Murray, Mantor, Niles, Palmer, G. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Purviance, Samuel A., Russell, Simpson, Smith, Wm. H., Turrell, White, David N., Wright and Walker, *President*—45.

NAYS.

Messrs. Baer, Baker, Bannan, Boyd, Brodhead, Broomall, Brown, Calvin, Church, Curtin, Cuyler, Dallas, Davis, Dodd, Ewing, Finney, Funck, Gibson, Hanna, Harvey, Hemphill, Horton, Howard, Hunsicker, Kaine, Knight, Lambertson, Lilly, Long, M'Culloch, M'Michael, Minor, Mott, Newlin, Parsons, Patterson, D. W., Reed, Andrew, Rooke, Runk, Smith, Henry W., Van Reed, Wetherill, J. M., White, Harry and White, J. W. F.—44.

ABSENT—Messrs. Addicks, Armstrong, Bartholomew, Biddle, Bowman, Buckalew, Bullitt, Carey, Cassidy, Clark, Cochran, Corson, Craig, Dunning, Elliott, Ellis, Fell, Fulton, Gilpin, Green, Heverin, Lear, Littleton, MacVeagh, M'Camant, M'Clean, Mann, Metzger, Mitchell, Palmer, H. W., Pughe, Read, John R., Reynolds, Ross, Sharpe, Smith, H. G., Stanton, Stewart, Struthers, Temple, Wetherill, John Price, Wherry, Woodward and Worrell—44.

The PRESIDENT. The resolution will be read a second time.

Mr. MACVEAGH. One moment, Mr. President. Is my name recorded there? The PRESIDENT. You did not answer.

Mr. MACVEAGH. I did answer distinctly and emphatically "nay," in the presence of Mr. Knight.

Mr. HARRY WHITE. If that is so, the delegate has a right to have his name recorded.

Mr. MACVEAGH. I not only voted myself, but discussed the subject with Mr. Knight before my name was called, and I voted "nay." I have a right to have my name recorded.

Mr. HARRY WHITE. I ask that his name be recorded.

Mr. MACVEAGH. The gentleman from Philadelphia (Mr. M'Michael) heard me vote.

Mr. M'MICHAEL. I did.

Mr. DALLAS. Certainly nobody doubts it.

Mr. HARRY WHITE. I rise to a question of order. The delegate from Dauphin rises in his place and says that he voted. Now I ask that his name be recorded. That will make it a tie vote.

The PRESIDENT. Neither of the three clerks has got his name. I did not hear him answer. If gentlemen will pay some attention to the clerks when they are calling the roll and answer so that they can be heard, this trouble will not arise.

Mr. MACVEAGH. I did not vote perhaps as loudly as I might have done, but I voted.

The PRESIDENT. If the delegate says that he voted, the Chair will direct the Clerk to take his vote.

Mr. MACVEAGH. Undoubtedly I voted in the negative.

The PRESIDENT. Then the vote stands forty-five to forty-five, and the resolution is not ordered to a second reading.

SUBMISSION OF RAILROAD ARTICLE.

Mr. DALLAS. I offer the following resolution:

Resolved, That if any article upon railroads and canals shall pass finally, it will be separately submitted to a vote of the electors.

I ask that the resolution lie over until Monday.

The PRESIDENT. It will lie on the table for the present.

SATURDAY SESSION.

Mr. S. A. PURVIANCE. I offer the following resolution:

Resolved, That the Convention will hold a session on to-morrow, until one o'clock.

for the exclusive purpose of considering the schedule and ordinance of submission.

On the question of proceeding to the second reading and consideration of the resolution a division was called for.

Mr. DE FRANCE. I call for the yeas and nays.

Mr. PORTER. I second the call.

Mr. CURTIN. The schedule was recommended to the committee yesterday. It is not before the Convention.

Mr. HAZZARD. It will be reported to-day.

Mr. CURTIN. It is not reported yet, though.

The yeas and nays were taken, and resulted as follow:

Y E A S.

Messrs. Achenbach, Alricks, Andrews, Armstrong, Bally, (Perry,) Bailey, (Huntingdon,) Bardsley, Black, Brown, Buckalew, Cochran, Collins, Corbett, Cronmiller, Curry, De France, Dodd, Fell, Guthrie, Hall, Hay, Hazzard, Landis, Lawrence, MacConnell, Mantor, Mott, Palmer, G. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Purviance, Sam'l A., Russell, Simpson, Smith, William H., White, David N. and Wright—39.

N A Y S.

Messrs. Ainey, Baer, Baker, Bannan, Barr, Beebe, Biddle, Bigler, Boyd, Brodhead, Broomall, Calvin, Campbell, Carey, Church, Clark, Corson, Curtin, Cuyler, Dallas, Darlington, Davis, Edwards, Elliott, Ewing, Fulton, Finney, Funck, Gibson, Hanna, Harvey, Hemphill, Horton, Howard, Hunsicker, Kaine, Lambertson, Lilly, Long, MacVeagh, M'Culloch, M'Michael, Minor, Niles, Parsons, Patterson, D. W., Reed, Andrew, Reynolds, Rooke, Runk, Smith, Henry W., Turrell, Van Reed, Wetherill, J. M., White, Harry, White, J. W. F., Woodward and Walker, *President*—58.

So the resolution was not ordered to a second reading.

ABSENT.—Messrs. Addicks, Barclay, Bartholomew, Bowman, Bullitt, Carter, Cassidy, Craig, Dunning, Ellis, Gilpin, Green, Heverin, Knight, Lear, Littleton, M'Camant, M'Clean, M'Murray, Mann, Metzger, Mitchell, Newlin, Palmer, H. W., Pughe, Read, John R., Ross, Sharpe, Smith, H. G., Stanton, Stewart, Struth-

ers, Temple, Wetherill, John Price, Wherry and Worrell—36.

Mr. J. N. PURVIANCE. I offer the following resolution:

Resolved, That the Convention will hold a session to-morrow, from ten A. M. till two P. M.

I call for the yeas and nays on proceeding to the second reading of that resolution.

Mr. DE FRANCE. I second the call.

Mr. HOWARD. I move to postpone this whole subject of adjournment.

The PRESIDENT. The resolution is not before the House to be postponed.

Mr. HOWARD. We are losing every Friday in this way.

The PRESIDENT. The CLERK will call the names of delegates on proceeding to the second reading of the resolution of the gentleman from Butler.

The yeas and nays were taken, and were as follow, viz:

Y E A S.

Messrs. Achenbach, Alricks, Andrews, Bally, (Perry,) Bailey, (Huntingdon,) Bardsley, Barr, Black, Brown, Buckalew, Carter, Collins, Corbett, Cronmiller, Curry, De France, Dodd, Edwards, Elliott, Fell, Guthrie, Hall, Hay, Hazzard, Knight, Landis, Lawrence, MacConnell, M'Murray, Mantor, Niles, Palmer, G. W., Patton, Porter, Purman, Purviance, John N., Purviance, Samuel A., Russell, Simpson, Smith, Wm. H., White, David N. and Wright—42.

N A Y S.

Messrs. Ainey, Armstrong, Baker, Bannan, Beebe, Biddle, Bigler, Boyd, Brodhead, Broomall, Calvin, Campbell, Carey, Church, Clark, Corson, Curtin, Cuyler, Dallas, Darlington, Davis, Ewing, Finney, Fulton, Funck, Gibson, Gilpin, Hanna, Harvey, Hemphill, Horton, Howard, Hunsicker, Kaine, Lambertson, Lilly, Long, MacVeagh, M'Camant, M'Culloch, M'Michael, Minor, Mott, Parsons, Patterson, D. W., Patterson, T. H. B., Reed, Andrew, Reynolds, Rooke, Runk, Smith, Henry W., Stanton, Turrell, Van Reed, Wetherill, J. M., White, Harry, White, J. W. F., Woodward and Walker, *President*—59.

So the Convention refused to read the resolution a second time.

ABSENT.—Messrs. Addicks, Baer, Barclay, Bartholomew, Bowman, Bullitt, Cassidy, Cochran, Craig, Dunning, Ellis, Green, Heverin, Lear, Littleton, M'Clean,

Mann, Metzger, Mitchell, Newlin, Palmer, H. W., Pughe, Read, John R., Ross, Sharpe, Smith, H. G., Stewart, Struthers, Temple, Wetherill, John Price, Wherry, and Worrell—32.

ORDER OF BUSINESS.

Mr. BIGLER. I now move that, postponing all other orders, the Convention proceed to the consideration of article number seventeen.

Mr. KAINE. I hope that the gentleman will allow me to offer a resolution to be laid on the table.

Mr. BIGLER. I withdraw my motion for that purpose.

EDUCATION.

Mr. KAINE. I offer the following resolution and ask that it be laid on the table.

Resolved, That the Committee on Revision and Adjustment be directed to strike out section three of the article on education which allows women to be school directors.

Mr. BIGLER. I now renew my motion.

The PRESIDENT. The resolution will be laid on the table.

Mr. HUNSICKER. I rise to a point of order. I want to know whether it is competent to change a provision of the Constitution which has been passed on third reading by a resolution in this way.

Mr. KAINE. I asked that the resolution be laid on the table.

The PRESIDENT. It has been laid upon the table.

Mr. KAINE. If the Convention should at some subsequent time take the resolution from the table and proceed to consider it, then we will discuss the matter with the gentleman from Montgomery.

Mr. HUNSICKER. I desire to meet the issue now.

The PRESIDENT. There is nothing before the Convention.

Mr. HUNSICKER. I have raised a point of order, and I desire the Chair to hear me. The point that I make is this: That a resolution of that kind cannot be received by this Convention for any purpose. It is not competent for this Convention to receive it, because it is a rescinding of what has been already done and passed, and the only way in which that matter can be reached is by a motion to reconsider or by a suspension of the rules.

THE JUDICIARY.

Mr. BIGLER. I renew my motion to take up article seventeen.

Mr. JOS. BAILY. Before the gentleman does that, I wish he would allow me to make a privileged motion.

Mr. BIGLER. I yield the floor to the gentleman from Perry.

The PRESIDENT. The Chair will state that it will require a two-thirds vote to agree to the motion of the gentleman from Clearfield.

Mr. JOS. BAILY. The gentleman from Clearfield has yielded me the floor, and I now move that the Convention proceed to consider the motion I made a few days ago to reconsider the article on the judiciary. I make this motion at this time, because I believe the Convention is as full now as it will be at any time between this and the adjournment. I want to give every one fair play on this subject. I propose, if this motion carries, to move to postpone—

The PRESIDENT. The motion is not debatable. The delegate will take his seat until the matter is properly before the Convention.

Mr. BIGLER. I will withdraw my motion for the purpose of relieving the question.

The PRESIDENT. Now, the delegate from Perry moves to take from the table the motion that he made the other day to reconsider the vote on the final passage of the judiciary article. That is the matter now before the House.

Mr. JOSEPH BAILY. I desire to state to the Convention that if this motion carries—

Mr. HARRY WHITE. I object to a discussion of the question.

The PRESIDENT. The subject is not open to discussion.

Mr. J. N. PURVIANCE. If it be in order—

Mr. BIGLER. I call for the yeas and nays on the motion to reconsider.

Mr. EWING. I second the call.

The PRESIDENT. The motion is to reconsider the vote on the passage of the judiciary article.

Mr. J. N. PURVIANCE. I move to postpone the motion to reconsider for the present.

The PRESIDENT. It is moved to postpone the motion to reconsider.

Mr. J. N. PURVIANCE. I call for the yeas and nays on the motion to postpone.

Mr. BOYD. I second the call.

The PRESIDENT. The Clerk will call the names of delegates.

Mr. DARLINGTON. Before voting I should like to understand, if I can, for what purpose this reconsideration is asked.

The yeas and nays were taken; and resulted as follows:

Y E A S.

Messrs. Ainey, Alricks, Andrews, Armstrong, Baer, Barr, Boyd, Broomall, Brown, Clark, Corbett, Corson, Curtin, Cuyler, Dallas, Darlington, Davis, De France, Edwards, Elliott, Gibson, Hall, Harvey, Howard, Hunsicker, Kaine, Knight, Lambertson, Landis, Lilly, Littleton, Long, MacConnell, MacVeagh, M'Camant, M'Clean, M'Michael, M'Murray, Mantor, Minor, Niles, Parsons, Patterson, T. H. B., Patton, Porter, Purviance, John N., Purviance, Sam'l A., Runk, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Turrell, Van Reed, Wetherill, J. M., White, Harry, White, J. W. F. and Woodward—58.

N A Y S.

Messrs. Achenbach, Bally, (Perry,) Bailey, (Huntingdon,) Baker, Barclay, Bardsley, Biddle, Bigler, Black, Brodhead, Buckalew, Calvin, Campbell, Carter, Church, Collins, Cronmiller, Curry, Ewing, Finney, Fulton, Funck, Gilpin, Guthrie, Hanna, Hay, Hazzard, Hemphill, Horton, Lawrence, M'Culloch, Mann, Mott, Newlin, Patterson, D. W., Purnfan, Reed, Andrew, Rooke, Russell, Simpson, White, David N. Worrell, Wright and Walker, President—43.

So the motion to postpone was agreed to.

ABSENT.—Messrs. Addicks, Bannan, Bartholomew, Beebe, Bowman, Bullitt, Carey, Cassidy, Cochran, Craig, Dodd, Dunning, Ellis, Fell, Green, Heverin, Lear, Metzger, Mitchell, Palmer, G. W., Palmer, H. W., Pughe, Read, John R., Reynolds, Ross, Sharpe, Stewart, Struthers, Temple, Wetherill, Jno. Price and Wherry—32.

REPORT OF COMMITTEE ON ACCOUNTS.

The PRESIDENT. Reports of committees are in order.

Mr. HAY. Presented the following report, which was read:

The Committee on Accounts and Expenditures of the Convention respectfully reports:

1. That there have been submitted for its consideration the following accounts for stationery

Wm. F. Murphy's Sons, for... \$1,358 50
Claxon, Remsen & Haffefinger,
for..... 402 17

These bills have been carefully examined. The Chief Clerk has certified that they are correct. It is therefore believed that the articles charged for therein were furnished by the parties rendering them upon the order or by the authority of the Chief Clerk, whose function it exclusively was to purchase such stationery as was necessarily required for the proper and convenient transaction of the business of Convention; and that the prices charged are the usual and ordinary prices for similar articles purchased in similar quantities in Philadelphia; and that the articles mentioned in the accounts are mainly of such a character as were proper to have been procured for the use of the officers and committees of the Convention.

It is therefore believed that the Convention is bound for the payment of these bills. They are, however, in the opinion of the committee, in many particulars, in excess of the actual requirements of the body for its legitimate uses; and while reporting that these bills should be paid the committee is not to be understood as approving their entire character and extent.

2. That there is now due the Official Reporter of the Convention for his services from the fifteenth of July last, the date to which the last settlement for reporting was made, up to and including the fifteenth of October, the sum of \$3,272 27.

The following resolutions are accordingly reported for the action of the Convention.

1. *Resolved*, That warrants be drawn upon the State Treasurer in favor of William F. Murphy's Sons, for \$1,358 50, and Claxon, Remsen and Haffefinger for \$402 17, in payment of their respective accounts mentioned in the foregoing report.

2. *Resolved*, That a warrant be drawn upon the State Treasurer in favor of D. F. Murphy, Official Reporter, for the sum of \$3,272 27, in full payment for his services up to and including the fifteenth day of October, instant.

The resolution was ordered to a second reading.

Mr. HAY. These resolutions, I presume will be agreed to separately, if

agreed to at all; and before the question is taken upon the first resolution I desire to have the last paragraph of the report of the committee read again for the information of the members, so that no one of them may vote without understanding just what the committee has reported upon this subject.

The PRESIDENT. It will be read. The attention of delegates is requested to the matter to be read.

The CLERK read the last paragraph of the report.

The PRESIDENT. The question is on the resolution.

The resolution was agreed to.

Mr. WOODWARD. I desire to make a report.

Mr. HAY. Only one resolution has been adopted. There is a second to be voted upon.

Mr. H. G. SMITH. I should like to have a little further explanation of that account, and I ask the chairman of the Committee on Accounts to give us some explanation of it. I should like to know something about the circumstances under which these charges are made.

The PRESIDENT. I do not know from the statement of the chairman of the committee anything about them; but if the chairman desires to make any statement the Chair will withdraw his decision. A second vote is desired on the first resolution.

Mr. HAY. The committee have made their report, which embodies their views on this subject. These bills came before them for examination, and they examined them carefully. They endeavored to investigate the character of each item of these accounts, and they believe that as these articles were purchased for the use of the Convention by or under authority of the only person who has any authority to make such purchases for this body, the Convention is bound for the payment of those bills. The articles were furnished in good faith by tradesmen who, of course, could know nothing as to the necessities of this body, or what was requisite for its use, and therefore we cannot now escape their payment; but for myself I desire to say that I believe purchases have been made to a larger extent than ought to have been made, purchases which were unnecessary in their character, and that there has been an extravagant use of the articles bought for the use of the Convention.

Mr. FUNCK. What articles do you refer to?

Mr. HAY. I desire to say further that taking up the different stationery accounts that have been rendered to the Convention from the opening of its sessions, I made an abstract of the different items which were contained in them, and in order that the Convention may understand why I have made the statement that I have made, I will read a few of the items for its information.

We are charged here with these stationery bills for 83 quarts of black ink, for 17 bottles of red ink, for 412 inkstands, for 13 inkstand racks, for 145 gross of steel pens, for 2 gross of quill pens, for 118 dozen of penholders, for 111 dozen of lead pencils, for 39 blank books, for 5 reams of post paper, 55 reams of cap paper, 25½ reams of letter paper, 31½ reams of note paper, one-half ream of letter heads, two reams of note heads, 340 quires of journal paper, 360 quires of bill paper, 6 reams of wrapping paper, 168 packs and 2 reams of manilla paper, 2,000 newspaper wrappers, 30,325 envelopes, 2 reams of envelope paper, 641 sheets of blotting paper, 4,000 blank cards, 30 paper weights, 37 paper cutters, 4,500 paper fasteners, 1 machine for paper fastening, 224 cap boards with lables, 40 erasers, 25 pairs of shears, 36 rulers, 2 pounds of sealing wax, 60 spools of tape, many of which contain a thousand yards; 175 bottles of mucilage, 5 mucilage stands, 6 Bibles, 2 Wostenholm knives, 19 baskets, 3 corkscrews, (laughtier,) those of course were used for opening ink bottles—4 brushes and combs, 13 bankers' trays, 64 bill holders, 6 reference files, 6 awls, I suppose they were used for putting documents on file; 5½ gross of rubber bands, 4 pounds of India rubber, 3 post office balances, one perhaps being necessary; 6 beard clips, 2 balls of twine, 2 city directories, 1 business directory and \$21 worth of pens and pencils, besides with a few other items.

This will serve to show why I object to endorsing. In my opinion, while most of these things are proper enough in their character, too much was purchased; more than was actually requisite for the ordinary and legitimate purposes of the Convention.

Mr. BOYD. I should like to know who got those things. Members have all furnished their own stationery, so far as I know, unless a few favorites may have got it.

Mr. HAY. I desire to say in reply to that inquiry that it is not to be presumed that I have any more knowledge of that matter than the member himself. I am not one of the officers of this body. I am simply a member of the Convention, here discharging my duty as chairman of one of its committees. The Chief Clerk is the accounting officer of this body.

Mr. FUNCK. I should like to know from the chairman who furnished that bill to the committee?

Mr. HAY. These bills were furnished through the Chief Clerk by the persons who sold the articles.

Mr. FUNCK. Who supplied those articles to the Convention?

Mr. HAY. These articles, of course, were purchased under the authority of the Chief Clerk, who is the only person who has authority to make such purchases for the Convention. Of course it is his duty to see that the proper and necessary amount of stationery used in the body shall be obtained. These bills, as all other such bills must be before the Committee on Accounts would consider them, are certified to be correct in every particular by the Chief Clerk of this body. They come before us with his endorsement upon them.

Mr. FUNCK. I desire to know whether the resolution to pay that bill has passed. ["No." "No."] Then I hope the Convention will never sanction it.

Mr. HAY. I will say that most of these articles, nearly all of them, appear to be of such a character as would properly be required for the due transaction of the business of this body. As a matter of course, it is necessary that the clerks and the committees should be supplied with stationery. The work of the Convention could not be done without the use of stationery. The Committee on Accounts therefore did not feel at liberty to say that these bills should not be paid, but they do desire to leave the responsibility for any extravagance in making these purchases where it belongs, with those who have made them.

Mr. ARMSTRONG. What is the total amount?

Mr. HAY. The actual amount of these bills I do not think large. I doubt whether such a body as this, of such numbers, and sitting so long, has ever been carried on with a less expenditure on this account. The whole expenditure for stationery since the Convention met at Harrisburg has not reached \$3,000.

Hence I do not think it such a very important matter as it might have been, but I have determined, as far as I am concerned, to sanction no extravagance, even to the amount of one dollar, if I know it, and therefore have thought it proper to bring this matter to the notice of the Convention, that it may take such action as it deems proper in the matter.

Mr. LILLY. I rise to inquire whether these bills are certified to by the Chief Clerk?

Mr. HAY. As a matter of course, every bill of this kind that we pass upon is certified to by the Chief Clerk, or by some person authorized to make purchases for the Convention. The resolution, I think, should pass, as the expense has been incurred and the Convention is liable for the payment.

Mr. MANTER. I have listened to the items as the chairman of the Committee on Accounts has referred to them, and I am disposed to vote against paying any account of this kind. I rise now in this place to enter my protest against it. I have no hand in it. Whatever things have been received at my desk in the shape of stationery, I have paid for, and I shall vote against paying these bills, and hope the resolution will not be adopted.

Mr. H. G. SMITH. Mr. President: I know the character of the stationers who furnished these articles. I am sure that neither of the houses from which these bills come would act in collusion with any party, nor would either of them send here a bill of any kind which was not fair and correct. Whatever fault may be in this matter rests with some official of our own. The items in these bills seem to show clearly that some one has ordered on our account more than he ought to have purchased, and more than was ever used by this body. What gentleman in this body has received a dollar's worth of stationery that he has not paid for? I do not know one. I am sure that I have not received five cents' worth. Who believes that such amounts of muck-lage and other articles as are here set down were needed or used by this body? It looks as if there had been an attempt at a small swindle here, but it is not on the part of the two houses from whom these bills come. We have nothing to do with this matter except to pay these bills, unless we deal directly with our own officers. That is a matter for us to consider, but these bills are fairly rendered by honest houses in this city which

would render no incorrect or exaggerated account. This Convention must pay these bills, and then it can investigate the manner in which they have been contracted, if it shall see fit to do so. With this explanation I shall vote in favor of the resolution offered by the chairman of the Committee on Accounts.

Mr. LAWRENCE. Mr. President: I have no knowledge of these bills except that which I obtained this morning from the report of our committee and from what has been said; but having had some experience in matters of this kind as to similar bills brought before the Legislature and Congress and other public bodies, I know that we have but little conception of the amount of paper, envelopes, pens, &c., that are used here every day by members and by others. The gentleman from Lancaster has referred to the muddle. That is a small matter; but my friend the Clerk at the end of the desk (Mr. Harlan) uses, I suppose, a quart of muddle every day in pasting papers upon the Journal and preparing it for the next morning. He is busy all day and at night at that.

I know nothing about these bills; but I do know that in less than four months at Harrisburg the bill for paper, stationery, &c., under a former clerk of the Senate, amounted to about ten thousand dollars.

Mr. H. G. SMITH. Allow me to say that I believe those bills were improperly swelled beyond all that was reasonable or right.

Mr. LAWRENCE. I do not say that. I do not mean to cast any reflection on Mr. Zeigler or Mr. Hamersly or any of these gentlemen who have been clerks at Harrisburg, and who are honorable gentlemen. I only mention it to show you that in the aggregate these bills will run up by the waste of paper in the clerk's room when the clerks perhaps have nothing to do with it.

I know the Chief Clerk of this Convention well, and I believe him to be as honest a man as there is on this floor, and I have no doubt if you will examine and analyze the items of these bills you will find that every sheet of paper and every pen has been used in some way for the legitimate purposes of the Convention. I say this in justification of the Chief Clerk, whom I have long known, who has no voice here to speak for himself.

Mr. WOODWARD. I should like to ask the gentleman what he means when he

talks about pens and pen holders and paper being used here, when every member has paid for every such article that he has used?

Mr. LAWRENCE. I venture now that there is not a member on this floor who has not sent up to the Clerk's desk—I have done it every day—for pens and pen holders when I did not have them at my desk. These things are stolen from our desks every day.

Mr. GUTHRIE. I can tell the gentleman of one who has not sent up for such things.

Mr. LAWRENCE. The gentleman is an exception.

Mr. CAMPBELL. I have not.

Mr. WOODWARD. I have not.

Mr. LAWRENCE. I have had at least three or four inkstands stolen from my desk. I do not know who did it, but I have had to call over and over for a new inkstand. I do not know who does these things; I do not blame any of the subordinate officers; but in a session of seven or eight months a body like this, of one hundred and thirty-three men, using paper, envelopes, pens and paste every day, you must suppose that the aggregate will be considerable. It amounted in the Senate, under George W. Hamersly, to about \$3,000 in three or four months; under Mr. Zeigler much more in about the same time, and in the same proportion in the House of Representatives, as my friend from Lycoming informs me.

Mr. WOODWARD. Let me inquire whether at Harrisburg, where things are done in that style, the members pay for those articles besides?

Mr. LAWRENCE. No, sir.

Mr. WOODWARD. I really think the gentleman ought to remember that we are paying for our own stationery.

Mr. LAWRENCE. There are only thirty-three members in the Senate of Pennsylvania, and the legitimate expenses of that body for paper, &c., connected with a session, were about ten thousand dollars, and the members there are allowed for stationery.

Mr. CUYLER. Mr. President: The only part of this bill that is offensive to me is the matter of the six Bibles. [Laughter.] I want to know what has become of the six Bibles? I am sure I have not seen any of them. I am sure I have not seen their precepts except by the walk and conversation of the gentlemen. Where are the six Bibles? [Laughter.] I want to know something about that. I am not at all

distressed about the muddle, because I see many mucllaginous individuals in here pass through a lubricating process, though I might not have passed through it. I want to know where the six Bibles are. [Laughter.]

Mr. LAWRENCE. I understand that those Bibles were distributed among the leading members of the bar of Philadelphia. [Laughter.]

Mr. COCHRAN. I have but a word to say in regard to this matter, I do not know what became of those Bibles; but if the gentleman from Philadelphia was sworn by the book as a member of this Convention, he was sworn on one of them. It will be remembered that when we met at Harrisburg and the members were called up to be qualified, there was no such a thing as a Bible to be found in the House, and the late President of the Convention remarked that Bibles seemed to be a very scarce article in that quarter. These Bibles were procured on that occasion, but I did not know that they were purchased or that they were to be charged to the Convention. But they were procured and used and after their use I do not know where they got to. Probably they are about the Capitol building at Harrisburg yet.

I only wish to say in regard to this report that I am entirely in accordance with the chairman of the Committee on Accounts and Expenditures on this subject. I was not able to see, nor am I able to see now, why so much of this stationery and so much of this other material was required. I think there was some of the material that we could have very well done without; but the articles were purchased, the debt was contracted and all that this Convention has to do now is to decide whether it will or will not pay for the articles which were bought for its use, whether injudiciously or otherwise. I therefore feel no hesitation in voting for the resolution, however much I may not be at all clearly satisfied with regard to the propriety of all the purchases.

Mr. ARMSTRONG. I desire to state, on behalf of the Chief Clerk, that I have inquired of him personally, and he states that many of these things were purchased at Harrisburg and not by him at all, and that the six Bibles spoken of were purchased before he was elected. He also states distinctly that every dollar's worth that has been purchased, and which appears on these bills, has been used by the members of this Convention and by the

clerks, except the quantity of material which still remains on hand. Now, I suppose that there is always a large amount of extravagance in public bodies of this kind, and the amount of such material as is used surprises us when we come to see it in the aggregate. We forget the daily waste. I have the fullest confidence in the integrity of the Chief Clerk. I believe him to be honest and I believe that every dollar that appears in these bills has been either used or wasted by the members of the Convention.

Mr. FUNCK. I should like to ask the gentleman whether \$50 was not appropriated to each member of this Convention for stationery.

Mr. ARMSTRONG. I do not suppose that members of this House have been to any extent benefited out of the purchases made by the Clerk; but I must say that a great majority of the members of this Convention have occasionally had small quantities of paper.

Mr. BIDDLE. I have.

Mr. ARMSTRONG. It does not make much difference whether they did and whether they saved a penny to themselves; but I am free to say that I have bought myself all the stationery I have used at my desk, with the exception of an occasional sheet of paper when it was a mere matter of convenience.

Mr. BLACK. So have we all.

Mr. ARMSTRONG. I think it was so with all the members of the Convention.

Mr. COLLINS. It was with me.

Mr. ARMSTRONG. I think that this debate is causing an unjust and unreasonable reflection upon the integrity of the Chief Clerk.

Mr. HARRY WHITE. I do not want to occupy more time, but to make the observation that some other gentlemen have made here, that I know nothing about the bill, except as the items have been read by the chairman of the Committee on Accounts and Expenditures. I also have conversed with the Chief Clerk since the items of the bill have been read, and he informed me to the same effect that the delegate from Lycoming has stated. I furthermore observe that while the bill for stationery seems somewhat large, and while it is true that under the act of Assembly by which this Convention was called, a certain allowance was made to individual members for stationery, yet every member of committees of this body, and the chairman of every committee of this body, is familiar with the

fact that every time his committee met in a committee room, there was an abundance of paper supplied for their uses, and this paper was what is called bill paper, which is of the most expensive kind. Again, I know that in the large committee of fifteen on legislation, paper was required by the members to write amendments and prepare suggestions, and time and again they sent down to the Clerk and received it. I know furthermore that the chairman of every committee was supplied with a blank book which was for the use of his committee, and which is doubtless in his desk at this time. I know the one which I received, as chairman of the Committee on Legislation, is in my desk now.

As to the subject of ink, the demand was very extraordinary. It was the practice of members of the Convention to have their inkstands filled from time to time at the Clerk's desk.

Then those of us whose practice it was to remain at our desks after we adjourned or to return here in the evening, know that all scraps of paper were gathered up at the desks by some of the attendants about the House. Doubtless, a great deal of stationery has been carried away in that manner. I think the Committee on Accounts and Expenditures are perfectly competent to examine the bills, and inasmuch as I find they have examined the subject and have reported a resolution in reference to it, I feel obliged to vote for that resolution. I believe the Clerk, who is part of this body, has been entirely honest and upright in the conduct of his business.

Mr. LAWRENCE. I only want to make one statement in justification of the Clerk. Five hundred dollars of this bill I understand was contracted by Mr. Small, who was under our supervision and employ at Harrisburg.

Mr. HAY. I do not understand that to be the fact. I understand that a portion of the bill was certified to by Mr. Small, but not five hundred dollars of it.

Mr. S. A. PURVIANCE. I only desire to say that we are wasting time unnecessarily in relation to this subject. I agree very fully with the remarks made by the gentleman from Lancaster, (Mr. H. G. Smith,) that there will be ample opportunity after we have agreed to this resolution to investigate the entire subject. I am therefore in favor of the adoption of the resolution, and then if any member of this body believes that

the Clerk has not made a fair distribution of this stationery, there will be ample time and opportunity afforded afterward to have a committee appointed for the purpose of inquiring into it. I therefore call for the previous question upon this resolution.

Mr. LITTLETON. I second the call.

Mr. CUYLER. I respectfully submit to the delegate from Allegheny that there is no necessity for the previous question.

Mr. T. H. B. PATTERSON. Certainly not. We can come to a vote by unanimous consent.

The PRESIDENT. It is certainly not necessary to call the previous question upon this motion at this time.

Mr. CURTIN. We shall pay this bill in the end. Whether it is right or wrong, we shall pay it. Let us pay it at once and be done with it.

The PRESIDENT. The question is on the resolution.

The resolution was agreed to.

Mr. HAY. I ask for the question on the second resolution.

The PRESIDENT. The second resolution will be read.

The Clerk read as follows:

Resolved, That a warrant be drawn upon the State Treasurer in favor of D. F. Murphy, Official Reporter, for the sum of \$3,272 27, in full payment for his services up to and including the fifteenth day of October, instant.

The resolution was agreed to.

BANKING—TELEGRAPH LINES.

Mr. WOODWARD. I have been instructed from the Committee on Private Corporations to submit a report.

The report was read as follows:

To the honorable the members of the Constitutional Convention:

Your Committee on Private Corporations, to whom was referred the resolution of Mr. Howard, to wit:

Resolved, That all persons or incorporated companies doing business in this Commonwealth as bankers, or that shall make it a part of their business to receive on deposit the money of other persons or institutions, are prohibited from buying or dealing, directly or indirectly, in the stocks, bonds or obligations of private corporations, (except those engaged exclusively in manufacturing or mining,) in any way, except as agents for the sale of the same, and a violation of this section shall be a criminal offence, punishable as

the General Assembly shall by law direct."

Having fully considered the subject-matter of said resolution, deem it inexpedient to recommend the incorporation into the Constitution of any provision of such a nature.

Upon consideration of the resolution of Mr. Brodhead, to wit:

"Any individual, partnership, or corporation organized for the purpose shall have the right to construct and operate telegraph lines between any two points in this State."

Your committee offer the following section to be incorporated into the article on private corporations, as section thirteen, to wit:

SECTION 13. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State and to connect the same with other lines; and the General Assembly shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in, the stock or bonds of any other telegraph company, or acquire by purchase or otherwise any other line of telegraph.

And your committee beg leave to be discharged.

All of which is respectfully submitted.

GEO. W. WOODWARD,
Chairman.

The PRESIDENT. The report is before the Convention.

Mr. WOODWARD. I move that the Convention resolve itself into committee of the whole for the purpose of considering that section.

Mr. MACVEAGH. I trust that motion will not now be pressed, but that we shall go on with the railroad article. We can get through with it to-day.

Mr. WOODWARD. It will not take long.

Mr. MACVEAGH. Yes; it will take long. Let it go over until Monday and be printed.

The PRESIDENT. The report will be laid on the table and printed.

RAILROADS AND CANALS.

Mr. MACVEAGH. Now, let us take up the article on railroads and canals.

Mr. BIGLER. Yes, I renew my motion to that effect.

Mr. BIGLER. I now move that the Convention resolve itself into committee of the whole for the purpose of inserting the following as a substitute for sections eight and nine of the text as it stands before us—

Mr. MACVEAGH. I ask the gentleman from Clearfield to give way for one moment while a suggestion is made to change section four.

Mr. BIGLER. That can come up just as well afterward as now.

Mr. MACVEAGH. No, I think there will be unanimous consent to it. If there is not unanimous consent, I will not ask it.

Mr. BIGLER. Well, with that understanding for that purpose, I withdraw it.

Mr. MACVEAGH. I simply then move to strike out the words "within the State" from section four, after the words "to any station. Some gentlemen think that these words ought to be stricken out as injuring the full force of the section.

Mr. BIGLER. They ought to come out.

Mr. MACVEAGH. Let the Clerk read the section without those words.

The CLERK read the section as proposed to be amended as follows:

"All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State, or coming from or going to any other State. Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class and in the same direction to any more distant station. But excursion and commutation tickets may be issued at special rates."

Mr. MACVEAGH. That is right. I think that is entirely right.

The PRESIDENT. Will the Convention unanimously agree to that amendment?

Mr. ROOKE. No.

The PRESIDENT. There is one objection and the amendment cannot be made by unanimous consent.

Mr. MACVEAGH. Then I move to go into committee of the whole for the purpose of striking out these words. There is a clause in that section which is intended to prohibit a railroad company from charging more for a shorter distance than for a longer distance. That is a principle this Convention has accepted by the report of both committees. Now, words are

inserted limiting that principle to any station within the State. It is supposed that those words are unnecessary and undesirable; that the general principle is a true principle and ought to be there without any qualification lest misunderstanding arise. Nobody supposes that we can go beyond the State to give extra-territorial effect to our enactment; but those words are needless surplusage. I believe every gentleman to whom it was suggested, whatever his opinions were, agreed in that view and hoped they would be stricken out.

Mr. CUYLER. If the words are useless, as the gentleman argues, they are not common. The railroad extends only within the State. It has no corporate powers beyond the State which are derived from the State of Pennsylvania. What then can be the harm in leaving them in? To strike them out might carry a sort of implication that it was intended to apply to stations beyond our territory. Is it not safer to leave them? Upon the gentleman's own theory they do not do any harm. To strike them out now may lead to an interpretation or construction that might do harm. I think the change should not be made.

Mr. T. H. B. PATTERSON. It seems to me that with the proposed change this branch of the section is all right as it has been agreed upon, and there is a misunderstanding as to these words being in there. Although these words do not apply to the general ground of discrimination, yet they do limit the application of these terms in some regard; and all we want to do is to apply the principle with regard to not charging more for a nearer station than for a further station, as applied to manufacturers and coal miners in Pennsylvania. This modification only applies with regard to products of manufacturers and producers in Pennsylvania and going out. It does not apply to the products coming in. It does not affect other trade at all, and therefore I submit that the proposition of the gentleman from Dauphin is correct, because we have already provided with regard to the points within the State and trade coming in. Therefore this limitation will only affect the trade of our manufacturers, producers and coal miners in shipping out to points of delivery beyond the State. It only applies to our trade within the State, and it seems to me it is a limitation very dangerous in this place. Therefore I ask

the members of the Convention to agree to this proposition.

The PRESIDENT. The question is on the motion of the delegate from Dauphin.

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

The CHAIRMAN. The committee of the whole have had referred to them the article, for the purpose of amending it by striking out the words "within the State," in the fourth section. By the instruction of the House the amendment will be made.

The committee rose, and the President having resumed the Chair, the Chairman (Mr. Armstrong) reported that the committee of the whole had made the amendment directed by the Convention.

Mr. BIGLER. Now I renew my motion to go into committee of the whole for the purpose of making the following amendment:

"No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise; and no railroad or canal company, nor any lessee, manager or employee thereof, shall make any preference in furnishing cars or motive power.

Mr. MACVEAGH. As a substitute for what is that offered?

Mr. BIGLER. For sections eight and nine. I move to strike out those sections and insert this substitute. I think there is no difference of opinion amongst the members of this body on this point, whatever their position may have been with regard to this subject generally. It is not at all to weaken what is accomplished in sections eight and nine, but this is more condensed and, perhaps on the real points, more complete. I shall pass from sections eight and nine to make myself understood. "All railroads and canals are declared public highways."

You see that that is unnecessary, because it is already in the first section.

"And all individuals, partnerships and corporations shall have equal right to have persons and property transported thereon, except as above excepted."

Now, those words are inapplicable.

"And all regulations adopted by the companies owning, controlling or managing such railroads or canals, having the effect of hindering or discriminating

against individuals, partnerships or corporations, except as above excepted."

You see that this is all inapplicable. That which is now pending interdicts directly all discriminations. It also supplies the first clause in section nine, and the latter clause would not be applicable to anything. It is a perfect substitute for both sections. It will answer the purpose of protecting transporters, whether companies, corporations or individuals, in equal rights of transportation and to equal facilities of transportation. That is all that is aimed at in the two sections. I think this substitute for them ought to be adopted without any division about it.

Mr. CUYLER. Mr. President: I recollect that when the question was under discussion in the Convention on the second reading of the article, Mr. Gowen made certain statements and explanations which might justify the thought that some modification of the language here employed was desirable. He stated that there was a certain police power exercised by the Reading railroad company, and precisely the same sort of power should under similar circumstances be exercised by all of these companies with reference to the distribution of their cars, which might seem to come in conflict with such language as this. Thus, for example, the Reading railroad company on a given day have a very large number of cars for distribution. It distributes those among the various shippers. They are required within a definite time, twenty-four hours, or whatever the limit of time may be, to fill those cars and have them ready for transportation. But some of the shippers are negligent; some of them ask for more cars than they ought to have, and thus they are found at the appointed time not to have their cars filled and ready for transportation. In order to check that sort of negligence on the part of miners and shippers of coal the company apply a rule which, when those particular transporters again require cars, reduces the allowance made to them. So I understand their rule to be. Would it not be safer to insert the same words here which we have already employed in similar circumstances in another section, namely: "No undue or unreasonable discrimination," or words to that effect, because cases may well arise where the exercise of such a power on the part of the company may be not only justifiable but commendable. I would move to

insert the words "undue or unreasonable."

The PRESIDENT. No amendment can be moved.

Mr. CUYLER. Then I suggest to the gentleman from Clearfield to modify his amendment in that way.

Mr. BIGLER. I do not think that, in furnishing facilities, because a company may not be able to furnish all that may be required there would be any serious difficulty on that subject. I presume there is not a railroad company in the State that is able now to furnish perfect facilities of transportation. I know there is no demand so important in my country as the demand for cars, and some of the coal companies have been obliged to furnish their own cars; nor are we able to furnish a remedy in that direction. I suppose we have no power to compel railroad companies to furnish all the facilities that may be demanded; but the proposition before us would require them to use the facilities which they possess equitably among companies and individuals, and that there should be no discrimination amongst them. They should do all that they can do on principles of perfect equality.

I do not think the terms suggested by my friend from the city, "undue or unreasonable," are essential, because, of course, having entire control of the motive power and of the cars, the company will be obliged to meet and will meet any exigency that comes upon themselves. That is a ground upon which I objected to a part of the eighth section, that it might deprive any railroad company of the ability to meet its own engagements in an exigency. That would meet such a case as this. I think that this amendment furnished a complete remedy against the evils complained of, and is a good substitute for the sections.

Mr. CUYLER. In order to save time, I am satisfied that on a fair construction of the proposition the view I have taken might be sustained, and hence it is not necessary to make the alteration I suggested.

Mr. S. A. PURVIANCE. Mr. President: I am very glad that we are in a fair way of coming together upon the most important proposition embraced in the railroad article. The ninth section of the railroad article, which strikes at transportation companies, as I observed the other day, was drawn by me, has been passed by this

Convention over and over again; and, sir, looking at this section offered by the gentleman from Clearfield, I am satisfied that it fulfills my expectations and strikes down the discriminations which have been made in favor of transportation companies against the rights of the people and the rights of the stockholders, and for one I am pleased to say that I am willing to accept that and give my vote for it, because it covers essentially and substantially the very section which I had prepared.

Mr. HOWARD. I believe, Mr. President, from an examination of the amendment offered by the delegate from Clearfield, that for once I am able to vote for a proposition that he has offered in the Convention on the subject of railroad discrimination. It seems to me that it is a good section, and I am willing to vote for it. I shall do it because I am satisfied from what has transpired here in the Convention that the friends of what I will denominate real and substantial reform in railroad management cannot get all that they have asked for. I have fought the battle here until I really begin to feel weary; I cannot fight much longer; and now I say that I am willing to vote for the amendment offered by the delegate from Clearfield, and if the Convention adopt it in my judgment it will settle a great bone of contention.

Mr. LANDIS. Before the vote is taken, I desire to call the attention of the Convention to what seems to me to be the language in which the amendment stands. I presume the gentleman has drawn it hastily. In the shape in which it now stands, I do not think the Convention is prepared to adopt it, at least without some revision.

In the first place, it says that there shall be no discrimination in charges or facilities between transportation companies and individuals or in favor of either. Now, sir, if we prohibit discrimination between transportation companies and individuals, then the words "or in favor of either" are entirely useless; they are tautology. If there be no discrimination between them, where is the use of inserting the language "nor any discrimination in favor of them."

Again, the first line of the proposed amendment says "there shall be no discrimination in charges or facilities." The same idea with regard to facilities, which I understand to be the furnishing of cars and motive power, is repeated in the last

clause, where the gentleman again says that there shall be no preference in furnishing cars and motive power.

Mr. BIGLER. Allow me to explain. Like all other original matter, this will undergo the supervision of the Committee on Revision and Adjustment, and if there is anything of mere form—of course nothing in substance—that requires change, they can make it. I do not agree at all with my friend that in a case like this we should leave anything in doubt for the want of a word or two. Although we do deny discriminations, it is well to say there shall be no discriminations in favor of anything.

Mr. LANDIS. All I have to say about that is this: When we pass upon a section of so grave a character, I desire that the language shall be clear and unambiguous, so that a question may not be raised hereafter as to what is the true meaning of the language of the section. Now, sir; as I understand the section reported by the committee of seven, I would prefer that; but I desire to say here, in voting upon this proposition, that I prefer, above all, sections eight and nine as they stand in the original article.

The PRESIDENT. The question is on the motion of the delegate from Clearfield (Mr. Bigler.)

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

The CHAIRMAN. The committee of the whole have had referred to them the article on railroads and canals, with instructions to strike out the eighth and ninth sections and insert in lieu thereof the following: "No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise; and no railroad or canal company, nor any lessee, manager or employee thereof, shall make any preferences in furnishing cars or motive power." That amendment will be made.

The committee rose, and the President having resumed the chair, the Chairman (Mr. Kaine) reported that the committee of the whole had made the amendment referred to them.

Mr. BRODHEAD. I move that we go into committee of the whole for the purpose of inserting after the word "indirectly" in the second line of the seventh section the following words: "In the furnishing of material or supplies to such

company or," so that the section will read:

"No president, director, officer, agent or employee of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company."

Mr. LANDIS. That is a good thing, and I hope it will pass.

The PRESIDENT. The question is on the motion of the delegate from Northampton (Mr. Brodhead.)

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

The CHAIRMAN. The committee of the whole had referred to them section seven, with instructions to insert after the word "indirectly" in the second line the words, "in the furnishing of material or supplies to such company or." That amendment will be made.

Mr. HANNA. I move to go into committee of the whole for the purpose of amending the article, by striking out section ten and inserting the following:

"No railroad company shall grant or issue free passes or passes at a discount, to any executive, judicial or legislative officer within this Commonwealth."

Mr. President, I appreciate very fully the decisive action of the Convention upon the subject contained in section ten. I understand that the object the Convention had in view was to remove from unfair or improper influences the executive, judicial, and legislative departments of the Commonwealth, and to meet that view I propose this amendment. I submit that it is a proper amendment because it covers just exactly what the Convention had in view.

The section as it stands certainly proposes to go much further than the Convention intended. It proposes, as will be noticed, that no free pass or a pass at a discount shall be given to any person except an officer or employee of the company. I think that goes entirely too far. Why, sir, just look at it. It removes even the opportunity of extending a charitable act. It removes the opportunity or the means of extending even the common courtesies of society. We all know, or at least we should know, that in a large city like this every day applications are made by persons who are

objects of charity to be conveyed over the railroads of the Commonwealth to their place of destination or their homes. Every day, to my knowledge, applications are made to the mayor of the city by those who have been lost upon the public streets, those who have been left at depots by other members of their families, immigrants for instance; and those homeless and lost people, through the kindness of the mayor of the city and the different railroad officials of Philadelphia, are permitted to reach the far west without any expense. Such a section as this would prevent that.

Again, we all know that the city of Philadelphia and the city of Pittsburg, and other cities throughout our Commonwealth, are favorite places of meeting of large bodies of our citizens, conventions, associations, general assemblies, evangelical alliances, and everything of that kind. Only this last week a large and respectable body of men, composed of the locomotive engineers throughout the United States, met in the city of Philadelphia in session. Those gentlemen came from beyond our borders. How? By the courtesy of the railroads of Pennsylvania. Should they be deprived of that? Certainly not. And as the gentleman from Washington (Mr. Hazzard) reminds us, in a case of great calamity with our own borders or beyond our borders, we would be prevented from sending over the railroads of the Commonwealth the fire department of Philadelphia, of Pittsburg, of Lancaster, or of Reading, to the relief of those who are suffering loss by the destruction of their property. The provision that railroad companies shall issue commutation or excursion tickets certainly does not meet the case.

Therefore, sir, while I approve the motive which induced the Convention to pass this section, yet do I not think the intention will be carried out by the section as it stands, and I hope the amendment will be adopted.

Mr. KNIGHT. I trust the Convention will vote this amendment down. In my judgment it does not meet the case. I was prepared to offer a modified section could I have had an opportunity to do so, and I will now read for the information of the Convention what I contemplated offering as a substitute for the tenth section:

"No railroad or railway company shall grant free passes or passes at a discount to any person except officers or employees

of the company, unless by a unanimous vote of its directors."

In the first place, that would apply to the street railway companies, which, probably, would give the masses a chance to ride at reduced fares.

The PRESIDENT. The delegate from the city will pause for a moment. I think the pending amendment was offered once before. Is that so?

Mr. HANNA. No, sir; I did not offer it before.

The PRESIDENT. Some one did.

Mr. HUNSICKER. It has not been offered since the article was reconsidered.

The PRESIDENT. The delegate from the city will proceed.

Mr. KNIGHT. If the Convention will vote this down, I shall offer my amendment.

Mr. AINEY. I voted for the section when it was inserted, but upon subsequent reflection I am satisfied that it is wrong. I regard it as an impertinent interference on the part of this Convention to interfere with the private affairs of railroad corporations when it extends beyond public officers.

Mr. KNIGHT. I have the floor.

Mr. AINEY. I thought the gentleman had concluded.

Mr. KNIGHT. I did not yield the floor.

Mr. AINEY. I thought the gentleman had finished his remarks.

Mr. KNIGHT. Mr. President: As I have said, my proposed amendment includes street railways. My object in including those is that the masses, the poor, may be enabled to ride on these railways at a reasonable price; that the influential and the rich may not travel upon them upon free passes, while all others are compelled to pay seven cents when five is really enough.

I have been induced to offer the latter clause, "by a unanimous vote of its board of directors," at the suggestion of many gentlemen who are in favor of the section, but who think it ought to be somewhat modified. Then in cases of charity or in any important event, such as a great calamity or a fire, it would give the board of direction power to grant free passes in those special cases.

Mr. HANNA. I should like to ask my colleague a question, with his permission.

Mr. KNIGHT. I do not want my ten minutes time to be interfered with.

Mr. HANNA. I should like to ask him how the board of directors would be called together to vote in favor of the officers of

the road granting a pass to an object of charity.

Mr. KNIGHT. They can be called together at any time.

Mr. HANNA. It is something I never heard of.

Mr. KNIGHT. Mr. President: I have stated on this floor that it costs at least \$500,000 per annum for free passes on one road in this Commonwealth. The gentleman from Butler (Mr. J. N. Purviance) was not wrong in his statement of that fact. If a railroad train should start out with five passengers, four of them having paid for their tickets and the fifth one riding free, why should not the companies if they can afford it put the price down to eighty cents, and put them all on the same footing? This is nearly the condition of things to-day in this State, and before I am done I shall show by figures that these are facts.

Gentlemen say, why cannot the stockholders protect themselves? If the question was fairly put at a meeting of stockholders, "shall every fifth man ride free over the road and four pay?" it would not receive a vote in the meeting; but when the officers of the road are elected they assume to themselves the power and privilege of issuing these free passes. Now, I ask, is it right that the officers of any railroad company should take to themselves the great power, privilege and patronage of scattering half a million of dollars of the stockholders' money in the shape of free passes, even with the sanction of the board of directors? The directors have no privilege nor power of this kind, nor should they have it.

Mr. J. N. PURVIANCE. I will ask the gentleman here, so that it may go upon the record, whether he is a director of the Pennsylvania railroad company?

Mr. KNIGHT. I am a director of the Pennsylvania railroad, the North Pennsylvania, and several others, and have been for twelve or fifteen years.

Now, Mr. President, we have introduced a section into the Constitution which says: "In all elections for directors or managers of corporations, each member or shareholder may cast the whole number of his votes for one candidate, or may distribute them upon two or more candidates, as he may prefer." Under this section it will not be in the future as it has been in the past, because the probabilities are that the minority stockholders will always be represented in the board of directors. That being the

case, when passes are justly required they may be obtained, and when they are not justly required there will be some check upon their general distribution.

This tenth section has passed the Convention in almost the same shape and form, in fact exactly as it was offered originally some ten or twelve times, and the last vote taken upon it was sixty for and thirty against it. I can very readily see why gentlemen connected with the city authorities would ask for a modification of this section.

The North Pennsylvania railroad company and the Pennsylvania railroad company are to some extent owned by the city of Philadelphia, and every citizen thinks that he is really a stockholder in these roads, and if he is not individually benefitted he wants to get his dividend in a free pass, and the roads are literally ridden to death by that class of people, and it is time to stop it.

After I left this Convention a few days ago, when the whole subject was referred to the committee of seven, I met the president of the North Pennsylvania railroad company, Mr. F. A. Comly. He said to me: "Mr. Knight, what has been done with your section on free passes?" I said: "It is referred, with all the rest of the article on railroads and canals, to a special committee of seven, and I have some doubt in my mind as to whether that committee will report the section or not." "Well," he said, "it ought to go in. Some days one-half of my time is taken up in giving free passes and answering applications about them, and I am not at liberty to attend to the duties of the stockholders as the president of the railroad company."

Mr. MACCONNELL. Will the gentleman allow an interruption?

Mr. KNIGHT. Certainly.

Mr. MACCONNELL. Have not the board of directors of the several roads full authority to control this matter of free passes?

Mr. KNIGHT. I have never known of the question having been submitted to a board of directors of which I am a member.

Mr. MACCONNELL. Have not the board of directors all requisite control of the article?

Mr. KNIGHT. That may be. I cannot answer. I only state that so far as I know they have not had control of the pass system. Mr. Comly informed me that last month the number of miles traveled on

the North Pennsylvania railroad, which is only fifty-five miles long, on free passes, was one hundred and thirty-seven thousand. Now, making a calculation of thirty persons to a car, it would require eighty-three cars, which would show the number traveled to be two thousand four hundred and ninety-one persons in one month, or in distance one million six hundred and forty-four thousand miles on a single pass in one year, which would require nine hundred and ninety-six cars, carrying twenty-nine thousand eight hundred and ninety-two persons. Now, estimating the cost of their carriage at three cents per mile, it will be \$4,110 per month, or \$49,320 per year. Please imagine a train of nine hundred and ninety-six cars going over the little North Pennsylvania railroad in one year, filled with twenty-nine thousand eight hundred and ninety-two dead-heads, and ask if that is justice to the stockholders or creditable to the community.

But, Mr. President, I do not stop with a road as small as the North Pennsylvania. I have extended this matter a little further. I think this calculation is not fully up to what it should be, but I have estimated that the Pennsylvania railroad, equalizing its length with this distance of fifty-five miles, is fifteen times as great as that of the North Pennsylvania railroad. Hence the number of miles that would be traveled upon that railroad on a free pass would be twenty-four million six hundred thousand. It would require fourteen thousand nine hundred and forty cars, and the number of passengers so carried would be four hundred and forty-eight thousand three hundred and seventy. This, at three cents per mile, would amount to \$742,800, and I really believe that this sum, great as it is, is below the estimate of what the Pennsylvania railroad company each year loses by the system of free passes. Just think of a train going over the Pennsylvania railroad composed of fourteen thousand nine hundred and forty cars, carrying four hundred and forty-eight thousand three hundred and seventy dead-heads at an expense to the company of \$742,800 per annum, and then vote against this much needed reform if you think it right.

Mr. CUYLER. Will my colleague allow me to ask him a question?

Mr. KNIGHT. Yes, sir.

Mr. CUYLER. Then I will ask my colleague if he has also estimated the size of

the locomotive required to draw that train?

Mr. KNIGHT. We have large locomotives on the Pennsylvania railroad, and we have a great many other big things there, and this is one of the big things that I want to strike a blow at.

There is another great evil. A person having a free pass does, to my certain knowledge, receive better accommodations and has greater influence on a car with the conductor than a man who pays for his ticket. I have on my right and on my left two members of this Convention who have literally been ruled out with their paid tickets to accommodate parties who had paid nothing, because the conductor very naturally thought that a party with a free pass must be of some distinction, and have influence with the powers that be.

Mr. AINCY. I will not detain the Convention long upon this subject. I have never detained it long upon any other. I can well understand why this Convention conceives it to be a part of its duty to prohibit the railroad companies from issuing free passes to legislative, judicial and executive officers in this Commonwealth. I can also well understand why this Convention should prohibit their issue to candidates for those offices, and I would be glad to vote for the prohibition. I hope the gentleman will modify his proposition so as to prohibit the railroad companies from issuing free passes to candidates for either of these offices. But beyond that, after deliberate and careful consideration, I am not prepared to go. I have failed to hear given any sufficient reason why this Convention should adopt such a sweeping provision as this tenth section. The statement which the gentleman from Philadelphia has just read to the Convention, if it means anything, simply means that the railroad companies, or the stockholders of the railroad companies, elect bad managers, and such managers elect bad officers. This is a matter entirely under the control of the directors themselves. No board of directors of any railroad company are bound to give free passes, and when they give them they give them because they generally expect to receive some return. Sometimes they give them as a matter of courtesy simply, but they are generally given because they deem it to the interest of the company that they be given. I regard it as an impertinent interference on the part of this Convention with the pri-

vate affairs of railroad companies, to dictate what they shall and what they shall not do to further the interests of the company they represent. They are the proper judges. I would leave it with them.

If there is any great abuse in this regard why cannot the stockholders remedy it? If the directors do not reflect their wishes and if the president and superintendents give passes in opposition to their wishes let the stockholders elect a new board of directors who will reflect their wishes, and who will not issue passes beyond a proper limit. It is proper for this Convention to prohibit the giving of free passes to public officers, because that has been a source of scandal, and, I believe, has resulted in some corruption. I hope, therefore, that the proposition introduced by the gentleman from Philadelphia will be adopted, and I desire, now, to ask him to modify it so as to include candidates for such offices.

Mr. CUYLER. I hope the Convention will do nothing that is absurd on this subject. I find myself wholly unable to agree with my colleague from Philadelphia, (Mr. Knight,) and I am very sorry that I cannot agree with him; the more so because I know his experience is large. I have had some experience also in regard to the North Pennsylvania railroad company and in some other railroad companies, and I may say that the power provided for in the amendment is precisely the power which is now possessed and exercised by those companies. My colleague is mistaken when he says that in the Pennsylvania railroad company the power of issuing free passes has not been passed upon and exercised by the board of directors. The board of directors of that railroad company, by resolution, deposited that power in the hands of the president, and there is to-day within the Commonwealth no railroad company in which the board of directors have not thought the best interests of the stockholders and the best interests of the company would be promoted by permitting the issuing of free passes, which we are now asked to prohibit by a constitutional provision. The power to refuse to issue passes is theirs; and if they do not choose to exercise it, what am I to infer from that? Nothing but that those who are placed in position as the guardians of the interests of the stockholders and those who are supposed to know best how to act on the subject, deem that the interests

of the stockholders and the interests of the company would be best promoted by leaving a reasonable discretion in this power to the directors of the railroad company. But to write this into the organic law of the land and make it a part of that law seems to me to be an absurd regulation. Why should we not as well regulate about the sewerage of Philadelphia? Why should we not insert provisions into the Constitution on that subject, or in regard to any other of the thousand ills under which we labor? Why should we allow this particular subject to stand foremost and overshadow all the rest? I confess myself, I am unable to conceive it. If the thing is wrong, the power to redress it is in the hands of the constituted guardians of the rights and interests of the stockholders of any railroad company and in the stockholders themselves in the selection of their boards of direction.

Let us see how an inflexible rule like this will operate. The Pennsylvania railroad company, and I believe every other railroad company in the State has a pass which it furnishes to clergymen living along the line of the road, passes at half price. Many of these clergymen are humble men, serving humble congregations. Some of them minister to the spiritual necessities of a parish that extends a number of miles along the line of a railroad, and they preach at one place in the morning, another in the afternoon, and a third in the evening. All this is cut off by this inflexible rule. Suppose again that a calamity falls upon a city, such as fell upon the city of Chicago, when a committee of citizens went out to dispense the charities of Philadelphia to those who had suffered by the great fire there. They were taken there, housed and fed by the Pennsylvania railroad company until they returned safely to this city. All this would be impossible if the amendment of my colleague prevails.

Mr. J. N. PURVIANCE. Will the gentleman from Philadelphia allow me to ask him a question?

Mr. CUYLER. Certainly.

Mr. J. N. PURVIANCE. Do not clergymen receive passes that require them to pay half fare—

Mr. CUYLER. That is the very thing that I am speaking about.

Mr. J. N. PURVIANCE. Whilst all the judges of the Commonwealth receive passes that do not require them to pay any fare.

Mr. CUYLER. That is the case, and I will address myself to a remark or two upon that subject, with the indulgence of the Convention. I for one would be very glad, so far as the judicial business of the Pennsylvania railroad company is concerned, if judges were not supplied with passes; because when that is done; a judge leans uniformly against the road wherever he can do so. Wherever there is a question of doubt the judges invariably give the benefit of the doubt against the company, simply because they are in the possession of a pass issued by it, lest their motives should be suspected and they should be supposed to lean in favor of the company that has issued to them a pass over its road. The passes, as far as the judiciary are concerned, are not beneficial to the company, but precisely the reverse.

In the State of New Jersey they have a system that is based upon a solemn statute. There is a general provision in the charter of every railroad company that the Governor, the chancellor, the judges, and the members of the Legislature shall, by right, ride free when they travel on the business of their offices over those lines of transportation which have been granted franchises by the State. There these officers do not feel beholden to the companies at all. They have what they have as a matter of constitutional right. They cannot be deprived of it, and it ought to be so in Pennsylvania. Instead of the amendment of my friend from Philadelphia (Mr. Hanna) being adopted, I would rather see this section read, that by chartered right all these officers of the State of Pennsylvania should ride free over those transportation lines which have been chartered by the State; but as for going further and interfering between the stockholders and the ordinary private business of the companies, I confess that it seems to me simply preposterous. If there is an abuse in this thing, the stockholders have the power to correct it. The fact that they do not exercise that power proves irresistibly that they do not think it wise to exercise it. I hope, therefore, that if anything is to be done in reference to this subject, the amendment of the gentleman from Philadelphia (Mr. Hanna) will prevail, but I would rather the section should be stricken out.

Mr. CURTIN. The delegate from Philadelphia (Mr. Cuyler) thinks that we should leave this question to the constituted authorities of the railroad com-

panies. That suggests the very reason why I am in favor of this restriction. If it is true that the legislation of this Commonwealth is controlled by corporations, and especially by railroad corporations—and certainly we must believe that, if we believe one tithe of what has been said on this floor—the object of the friends of this section is to cut off one means of corruption. If the delegate from Philadelphia who spoke first (Mr. Knight) is correct, \$750,000 a year that belongs to the stockholders of the Pennsylvania railroad company is distributed without the knowledge or consent of the stockholders. If he is correct, the directors of the company have nothing to do with the distribution of that fund. It depends upon the action and the will of the minor officials; \$49,000 a year is taken out of even the earning of a little railroad running out of Philadelphia, a distance of fifty-five miles, at the expense of the stockholder who has invested his money in the stock of that company, and who has no control or power over it. It is not, Mr. President, for us to say that this is not wrong; nor is it preposterous to say that if you place in the power of a railroad company the power to issue free passes you give them a means of approaching the officials of the State, and these officials are too often corrupted by this influence. If you take away that power entirely in the Constitution, you do away with that means of corruption.

The delegate says, I do not know whether it is his experience or not, but I understood him to say that a judge was very apt to lean against a railroad company in any decision that he should make, if he travelled on that road on a free pass. That may be so, but it is unlike the infirmities of all of us. I suppose that the pass of a judge of the Supreme Court of Pennsylvania who lives in a distant part of the State and who travels to and from this city, to and from Pittsburg, and to and from his home during the summer, with his family, transported free of expense, might be estimated as being worth some four or five hundred dollars. I can very well understand how a sensitive man, receiving an emolument of four hundred or five hundred dollars a year from a party litigant before him, might lean against that party, but I can just as well understand how a man equally amiable might lean for it, and I can readily understand how the ermine would be kept purer if a judge on the bench did

not receive indulgences, emoluments, or pay from any parties litigant before him.

In ancient times they represented the Goddess of Justice blind, holding a pair of scales just balanced; and sometimes in this country we put the blind Goddess in our courts of justice, paint her on the walls, or have elegant marble cut into the shape of the Goddess. I have thought during this discussion of seven gentlemen who were wise and just, of eminently pure character, being on the bench, for I have not assailed the character of any judge in Pennsylvania, and while they were considering a very important case growing out of the interests of some railroad company—indeed I would imagine that company to be the Pennsylvania Central and the learned and eloquent delegate on this floor (Mr. Cuyler) counsel for that company, standing up and arguing before the seven judges—and some thief should go to the bench and stealing behind the judges give each man a free pass; although that pass might not settle the scales held by the blind Goddess of Justice it would be an unpleasant sight to look at certainly; and yet according to the theory of my friend, the delegate from Philadelphia, the judges, notwithstanding that, would only lean against the railway company because they had those free tickets.

I have never found it to be very profitable to pay a man if you expect him to go against you. Generally when you pay a man wages he goes in your favor; and inasmuch as the judges are made of the same kind of clay we are, are subject to the same passions and influences, we should have a care that elevation to the bench does not take a man so far above the common mass as that he may not be approached by the blandishments of ambition or the worse motive of avarice.

I do not think that this is preposterous. Nay, the people of Pennsylvania expect this free pass system to be abolished; and while it might affect the exercise of charity for the transportation of goods and people in times of great public calamity, yet these are troubles to be expected from the enactment of any law or the insertion of any general principle in the Constitution, and it is better even for the exercise of charity that sometimes the want should go unsupplied, that a great public calamity should not be relieved; it is better that the exercise of charity should be delayed at times than that great corporations in this Commonwealth should have in their

power the means of corrupting a Legislature and approaching the judiciary. I would have the Legislature of the State pure under the arrangement we have made, and I would not have the ermine defiled by future expectation of reward.

Mr. LILLY. Mr. President: I think the argument of the gentleman from Centre is not very strong. It is a case of special pleading on this subject, it seems to me. It gets clear below what ought to be in the Constitution, which should be confined to settling great principles. He says that if you take away the passes you take away the power of corruption. I insist that it is impossible to take away all that power of corruption from any set of men unless you take away every dollar the corporation owns. The argument appears to be that because they have a right under general principles to give passes to whoever they please, it necessarily makes the receivers corrupt. I think that is all nonsense. I think it is our duty to put in the Constitution great principles; but I consider this tenth section in violation of a great principle, because it says that a man cannot take his neighbor in his wagon if he chooses.

Mr. FUNCK. I should like to ask a question. Suppose you had an action pending against a railroad company, and that case was down for trial, and the judge had the pass of that company?

Mr. LILLY. If I had an action in a court before a judge who had his pocket full of railroad passes, any judge that I know in this Commonwealth, I would feel as safe before that judge as if he had not one pass. I believe that our judges are made of that sort of material that they are clear above the reach of a railroad pass from anybody, and I would not stoop to that sort of thing of suspecting a man of that stripe, whom we elevate to the bench, to be influenced by a railroad pass.

Mr. BUCKALKW. I desire to raise this question of order: That upon third reading it is not in order to renew an amendment which has been voted upon and rejected. Now, the question is of the stage of the bill, not whether it was offered before we reconsidered the vote on third reading. The question is whether this same amendment was offered before on the third reading of this article. If we do not enforce that rule, we shall never get through.

The PRESIDENT. I made the inquiry some time ago, and it was not communi-

cated to me. My recollection was that the same amendment had been offered; and hence I made the inquiry. Now I learn that the same amendment has been heretofore offered. It is rather late to rule it out of order, but I am compelled to sustain the point of order.

Mr. AINEY. Then I renew the motion with the modification I suggested, that is so as to include any candidate for those offices. That modifies it.

Mr. LILLY. I thought I had the floor.
The PRESIDENT. There is no amendment before the House.

Mr. LILLY. I desire to have something before the Convention. I have an amendment to that section.

The PRESIDENT. The Chair is under some obligation to himself. He promised as soon as this motion was disposed of to give the floor to the delegate from the city (Mr. Knight.) He is now claiming the floor, and the Chair thinks he ought to assign the floor to him.

Mr. KNIGHT. I move to go into committee of the whole for the purpose of striking out the tenth section and inserting in lieu thereof the following:

"No railroad or railway company shall grant free passes or passes at a discount to any person except officers and employees of the company, unless by a unanimous vote of its board of directors."

I ask whether the question can be divided or whether it must be voted on as a whole?

The PRESIDENT. It cannot be divided.

Mr. KNIGHT. Then I will strike out the latter part of it. If any gentleman wants to insert it, he can move to do so.

The PRESIDENT. The amendment will be so modified.

SEVERAL DELEGATES. Let it be read as modified.

The CLERK read as follows:

"No railroad or railway company shall grant free passes or passes at a discount to any person except officers or employees of the company."

Mr. BOYD. That is exactly the section.

Mr. WOODWARD. I want to say a few words on this question. After what we heard this morning from the mover of this amendment in regard to the amount of money that belongs to the stockholders of these railroad companies lost by the issuing of free passes, I did suppose that nobody in this House would refuse to put this salutary restraint and amendment into the Constitution. I hoped we should have a unanimous vote upon that subject,

when to my astonishment a gentleman who I am sorry to not see in his seat at this moment, and who I believe confesses himself to stand in this Convention as in some sense a representative of a great railroad corporation, a gentleman of the highest respectability, a gentleman of the most seductive eloquence, a gentleman who is under the largest pay of the largest corporation in the State, sitting right beside my friend who made this exhibition of figures, rose and objected to this saving of \$700,000 per annum to his company.

Well, sir, when under the lead of my friend from York (Mr. Cochran) it was proposed to put this fourth section upon the railroads, we were told that we should ruin the railroads of this State, which we did not want to ruin. Just as soon as this Convention moved in the direction of protecting the people against the aggressions of railroad companies, most lamentable Jeremiads were raised upon this floor against this proposition, and I myself, who am only too subject to those seductive influences—I myself, who meant to support the fourth section of the Railroad Committee—was brought yesterday to vote for the diluted provision of the committee of seven as a substitute for it, a provision which I do not believe means much, and if it does mean anything it means that this whole matter of reasonable tolls shall become a judicial question and be referred to the judges who the counsel of the railway companies insist shall travel on their passes.

Now, this is curious, very curious. I was persuaded to abandon the fourth section reported by the Railroad Committee and go for the harmless measure reported by the committee of seven. I did so. I cast my vote in that way, and I did it according to a conviction lodged in my mind that it was necessary to sustain the railroads; but this morning I am told that in order to sustain the railroads we must take \$700,000 a year out of their treasury and give it to somebody.

Mr. KNIGHT. \$742,000; and that is below the estimate.

Mr. WOODWARD. \$742,000 are the exact figures.

Sir, this free pass system has become a system of corruption; it is a corruption fund, and therefore I do not like to hear the paid attorneys of railroads stand up and insist on retaining this corruption fund in their hands at the very moment that they are protesting against conces-

sions which other gentlemen think are necessary for the people of Pennsylvania, as ruinous and destructive to their clients. I have no objection to carrying the poor clergymen of whom the gentleman speaks. I have given such men free passes myself. There is another way of giving such men free passes. I know exactly how to do it. I have no objection to that. I have no objection to your carrying paupers and mendicants. I have no objection to your carrying soldiers in time of war. I have no objection to your carrying fire companies to put out fires in neighboring towns. I have no objection to the administration of the company upon any such principles, and the gentleman made no progress in his argument when he put those cases, for that is not what we are striking at. What we are striking at is the corruption of the Legislature and the judiciary through a system of free passes. That is what we want to reach.

I was very sorry to hear my friend from Centre (Mr. Curtin) speak about justice as a blind goddess. Such a christian man as he is ought to know that that was a heathen conception of justice; it is not the christian mode of thinking of justice. Our mode of thinking of justice is of a being that looks before, and after, and all around; sees everything; sees everybody; knows everything that relates to the case it has to decide upon. About the scales, however, he is correct. The scales do belong to justice, and they should be held very even. My opinion is with him, that if a railroad company having a case before a judge should come and put a railroad pass into one of those scales, it would disturb the balance. Not that I mean to intimate that judges have been corrupted or that judges ever will be corrupted. I do not agree with the gentleman that judges are made exactly of the same clay of which Governors and foreign ministers are made. [Laughter.] I would, perhaps, have to think of that proposition awhile before I would consent to it. I think we select our purest and best men for judges, and we require them to perform all their duties in the face of the public, and I am happy to say that in all the history of Pennsylvania, down to this present time, I do not know that any considerable reproach, any reproach whatever as to the integrity of an individual judge or any body of judges, has ever got currency. I hope it may always be so.

But, sir, while that is true, and while that is due, perhaps, to social influences that surround the judge and the course of education, as well as the character of the man, it is also true that you cannot put parties litigant before a judge who has a railroad pass in his pocket, without subjecting him and through him the whole judicial establishment to popular reproach and suspicion. You cannot do that; it is impossible. Even a well-balanced man like myself, if I had a law suit with a railroad company and was before a court, knowing that the judges in that court had their pockets stuffed with the passes of that railroad company, which are just so much money, and the decision was promptly made against me. I am afraid that the most amiable man as I am in this body, except my venerable friend here, (Mr. Mott,) I would feel that those passes had some influence upon those pure men in deciding my case against me. And I should then say so, there is scandal, *scandalum magnatum*, and I have contributed to bring the judicial establishment into contempt and reproach by the evil passions excited by this state of things.

This state of things existed all the while. There is not a day in Pennsylvania that some railroad company is not before a judge lawing some citizen or some citizen lawing a railroad company. There is not a day of our lives that this thing does not exist.

I do protest, Mr. President, that if this Convention adjourn without rescuing the judiciary from this unmerited reproach, they will have done themselves and the public great injustice. The times call for it. The amendment of the gentleman from Philadelphia seems to me to be calculated to do this, as well as to save to stockholders that money which belongs to them to an amount that I confess astonishes me. I had no idea that this abuse had grown to such an extent, and seeing that it has grown—

The PRESIDENT. The delegate's time is up.

Mr. WOODWARD. I beg your pardon.

Mr. HOWARD. Mr. President: What is the question?

The PRESIDENT. On the motion of the delegate from Philadelphia (Mr. Knight) to go into committee of the whole for the purpose of making the amendment proposed by him.

Mr. HOWARD. I ask that the amendment be read.

The PRESIDENT. It is the same as the present section, except inserting the words "or railway." The section and the amendment will be read.

The CLERK. The amendment as offered by Mr. Knight as a substitute for section ten is as follows:

"No railroad or railway company shall grant free passes or passes at a discount to any person except officers or employees of the company."

Mr. HOWARD. It still does not cover one-half the cases.

The Pennsylvania company, I have often stated here, is not a railroad company at all, and yet it controls more railroads and can issue more free passes than any other corporation. This will cover a railroad or a railway, that is probably a railroad proper and a passenger railroad; but it does not cover that great transportation company. That company controls every road as I have stated, leading west out of the city of Pittsburg, except the Connellsville road, the Allegheny Valley, Fort Wayne and Chicago, the Steubenville, the Chartiers, the Pittsburg and Cleveland, leaving us nothing but the Connellsville road. Now, that is not a railroad company; it is not a railway company; it is a transportation company, a manufacturing company, a railroad building company. It can build, but it has not a railroad company, and it would not be embraced in the words "railroads or railway." If the delegate means to cover that Pennsylvania company, he should say "no railroad or transportation company," because the passenger railways are transportation companies inasmuch as they transport passengers. That would be comprehensive enough perhaps to cover all.

Mr. BOYD. Say "no railroad or any other company; that will cover it.

Mr. HOWARD. This tenth section as it stands, in the report, I admit, is not a proper provision on this subject, nor is the amendment of the delegate from Philadelphia. We ought to vote down the amendment offered by the delegate from Philadelphia; then we ought to wipe out the section, and we should put in a provision that means something and covers the ground. Something like this:

"No railroad company shall grant free passes or passes at a discount to a member of the Legislature, or to any executive, judicial or municipal officer, or to any other person employed in the public business of the State, or of any city or

county thereof, either for themselves or for the use of any other person."

That proposition was submitted once to this Convention with this addition to it:

"And the Legislature shall prescribe proper penalties," &c. With the penal clause directing the Legislature to prescribe penalties, &c., the Convention rejected it; but if the pending motion is voted down, I shall offer this as a substitute, with the penal clause struck out. This will cover all the ground thoroughly and completely, the Legislature, the judges, and all city officers. The people of the Commonwealth suffer as much, perhaps more, by the corruption of the city councilmen in different parts of the State than they do from the corruption of the members of their Legislature. We ought to vote down the whole section, and insert something that will cover all the officers of the State, that will be strong, like the provision I have read.

Mr. BEBBE. Mr. President: I rise principally to say that in seeking information from what I deemed competent authority while the Committee on Railroads was engaged in the construction of this report, I know of no reason why I should not state that amongst others I consulted the Hon. Franklin B. Gowen, president of the Reading railroad, for whom I have high respect, and at that time a member of the Convention, as to the reforms that were necessary to correct the abuses of railroads, for I maintain that from the beginning that is all we have desired to do. I believe as fully as any gentleman here that the railroads are beneficial and necessary for the development of the Commonwealth, and I am as much their friend as any member on this floor. It was only the abuses that we sought to prevent; and the very first reform suggested by the gentleman to whom I have alluded was, "strike down the free passes."

There is another reason why I should like to have a clause in the Constitution forbidding this system. It creates a class distinction of travel. I care not who it is or what man it is of this Commonwealth or how low his position, if he travels upon the railroad with a free pass, he is a privileged man, and any respectable, intelligent, honorable citizen of this Commonwealth traveling without a pass is below him in the estimation of every official of the railroad and is compelled to take a second place, and in any issue between them he

will be set aside in a moment by the official of the railroad company.

Again, the distribution of passes is an element in politics used for the purpose of making nominations and elections, as I have been informed; and I aver taking the average of humanity as they are, that a candidate for the Legislature who can have the use of fifty passes and have them well distributed among the politicians of his district can make that nomination over an honest competitor who has not that appliance in his hand, and he would not have if he were an honest man, and this is a case of no mere supposition.

Now, sir, where is the benefit of this system? It has created a distrust in the masses of the people against every man holding them. Notwithstanding what the gentleman from Philadelphia (Mr. Cuyler) has said, that these passes induced the Supreme Court to lean against the railroads, (and it is very magnanimous in the companies to give passes to the Supreme Court in order to induce them to lean against them,) the belief to-day in the minds of the masses of this Commonwealth is that those passes have an influence upon our judiciary and upon our public officers; and I appeal to any member on this floor if it is not a just and reasonable opinion, taking humanity as we find it.

But, Mr. President, I rise principally to give to the Convention briefly the testimony of so competent and so distinguished a gentleman as Mr. Gowen, to whom I have referred.

Mr. G. W. PALMER. I shall not occupy the attention of the Convention two minutes. I hope that the vote of no man in this Convention will be influenced upon this subject by the granting the clergymen and preachers of the country of free passes. That point has been made by the distinguished gentleman from Philadelphia (Mr. Cuyler.) Sir, I believe that the people of this country will take care of the clergymen and the preachers, and if they cannot, I do not want to turn them over to the tender mercies of the railroad companies. I can suggest a plan by which the preachers of this country can be provided with tickets and the money for them paid to the railroad companies. My proposition would be that when the hat is passed around, instead of putting in five cents we put in ten, and then all the preachers can pay their own fare on railroads. [Laughter.]

Mr. BUCKALEW. I hope, sir, that we are engaged in our very last debate upon this question, and I shall not continue it at any considerable length; but I desire to renew my protest against the line of argument which has been indulged in this morning by gentlemen who are opposed to the section. They insist upon it that railroad companies will be prevented from doing what they may properly do, sending firemen in the case of a calamity in a neighboring town or in any other case of extremity of furnishing transportation gratis. Now, sir, that is not the meaning or the effect of this section at all. There is nothing in it which will prevent the Reading railroad company from sending a fire company to Norristown to check a fire in that city without making any charge for sending them. The section is directed against the issuing of free passes to particular favorites to be held and used by them from time to time. That is its office. It is directed to a known existing abuse, and it ends there. It will not prevent a railroad company from carrying the President of the United States through the State without charging him, nor will it prevent them from exercising the reasonable privilege which I have mentioned in cases of extremity or hardship.

But, sir, what is the meaning of this section? Its intention is to prevent just that which the gentleman from Philadelphia who sits immediately before me (Mr. Cuyler) has described, a resolution by a board of directors authorizing their president to issue passes at his discretion to whomsoever he may please, to any number that he may choose, and under such circumstances as may be agreeable to him. He is to be constituted an Oakes Ames to place passes "where they will do the most good." That is the meaning and the only meaning of this pass system. They are to be placed in the hands of judges, so that they will not be hostile to the interests of the company. They are to be placed in the hands of the men who make our laws, so that no unfriendly legislation shall be enacted. They are to be placed in the hands of legislative borers and other men who can influence the law-making authority for the same reason. They are to be placed in the hands of municipal authorities in the case of street passenger railway companies, so that those municipal authorities will allow the laying down of a track in particular locations upon streets and otherwise exercise favors towards them.

They are to be issued to leading men of political and social influence in the State here and there who can influence the public authorities and thus promote the interests of the railroad company.

Do I not describe this system fairly and exactly? What is the intention of it except to give to the railroad company an unjust, an enormous and a fearful influence over the legislation and government of the State and of its municipalities. That is what we want to check. That is what the section will do. I protest against its being confined simply to officers of the State. That will not check the abuse materially.

In the form in which this section stands it will do its work. It will come in aid of the stockholders of all these corporations. It will come in aid of minorities in these boards of direction of railroad companies, who want their corporations honestly and fairly conducted. It will come in aid of honest officers of railroad companies who see the abuses of this system, who are opposed to it, and yet who cannot get rid of it because it is a system fastened upon them which they cannot shake off. It will come in aid of public morality. It will relieve the government of the State from abounding scandals. It will wipe out of our social and political life an inequality which is odious as well as evil, and which was well described by the gentleman who spoke a short time since (Mr. Beebe)—a system by which certain men in this State enjoy favors from the public corporations of the State that the great mass of the community do not. It will economize the administration of railroad companies. It will cheapen the charges upon the general public.

Upon all these grounds I insist that we have not had a more wise or salutary provision, perhaps, since the Convention met down to this moment—wise and salutary for the railroads themselves; wise and salutary for the general interests of the public; and promotive, in all respects, of the public character and welfare of the State. Sir, I shall vote against all amendments to this section, as well that offered by the gentleman from the city, (Mr. Knight,) authorizing these passes to be issued by a unanimous vote of the board of directors.

The PRESIDENT. That has been withdrawn.

Mr. BUCKALEW. I beg pardon. I shall very cheerfully support his other amend-

ment to include passenger railways; but I shall vote against all other amendments offered to this section. I believe it is now in the right and proper form. It only authorizes passes to be issued to officers and employees of a railroad company; and why? Because that is a legitimate expense for the corporation to incur, which the public cannot object to. Let us vote down all amendments; and I venture to say that there is no clause of our Constitution which will recommend itself more generally to the people of our State than this much denounced and debated tenth section of the article on railroads.

The PRESIDENT. The question is on the motion of the delegate from Philadelphia (Mr. Knight) to insert the words, "or railway" after "railroad."

Mr. COCHRAN. I suppose that can be done by unanimous consent.

Mr. EWING. I would suggest to the gentleman to insert also the words, "and transportation company." This language as it is will not cover one-half the railroads in the State.

The PRESIDENT. The question is on the motion of the delegate from Philadelphia (Mr. Knight.)

Mr. CUYLER. I call for the yeas and nays.

Mr. KNIGHT. I second the call.

The PRESIDENT. The Clerk will call the names of delegates.

Mr. CUYLER. I should like to withdraw the call for the yeas and nays, as I find that the motion is merely to insert a single word. I thought the question was on the section itself.

Mr. HUNSICKER. If the gentleman withdraws the call I will renew it.

The PRESIDENT. The roll will be called.

The question being taken by yeas and nays, resulted as follows:

Y E A S .

Messrs. Aohenbach, Alricks, Andrews, Baer, Baily, (Perry,) Baker, Barclay, Barr, Beebe, Biddle, Bigler, Black, Boyd, Brodhead, Broomall, Brown, Buckalew, Calvin, Campbell, Carter, Church, Clark, Cochran, Collins, Cronmiller, Curtin, Dallas, Davis, De France, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Guthrie, Hall, Harvey, Hay, Hazzard, Hemphill, Horton, Howard, Knight, Landis, Lawrence, Long, MacConnell, M'Clean, M'Murray, Mann, Mantor, Minor, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance,

John N., Purviance, Samuel A., Read, John R., Reed, Andrew, Reynolds, Rooke, Russell, Smith, H. G., Smith, Henry W., Smith, Wm. H., Turrell, White, David N., Woodward, Worrell, Wright and Walker, *President*—76.

N A Y S .

Messrs. Ainey, Armstrong, Bailey, (Huntingdon,) Corbett, Cuyler, Darlington, Dodd, Dunning, Edwards, Elliott, Ewing, Hanna, Hunsicker, Lilly, Mott, Niles, Pughe, Runk, Simpson, Stanton, Van Reed, Wetherill, J. M., White, Harry and White, J. W. F.—24.

So the motion was agreed to.

ABSENT.—Messrs. Addicks, Bannan, Bardsley, Bartholomew, Bowman, Bullitt, Carey, Cassidy, Corson, Craig, Curry, Ellis, Green, Heverin, Kaine, Lambertson, Lear, Littleton, MacVeagh, M'Camant, M'Culloch, M'Michael, Metzger, Mitchell, Palmer, H. W., Parsons, Ross, Sharpe, Stewart, Struthers, Temple, Wetherill, Jno. Price and Wherry—33.

The Convention accordingly resolved itself into committee of the whole, Mr. William H. Smith in the chair.

The CHAIRMAN. The committee of the whole have had referred to them the tenth section of this article for the purpose of inserting the words "or railway" after the word "railroad," and before the word "company." The words will be inserted.

The committee rose, and the President having resumed the chair, the Chairman (Mr. W. H. Smith) reported that the amendment directed by the Convention had been made by the committee of the whole.

Mr. EWING. I now move to go into committee of the whole for the purpose of inserting after the word "railway" the words "or other transportation," so as to read "no railroad or railway, or other transportation company," &c.

Mr. NILES and OTHERS. Let that be done by unanimous consent.

Mr. EWING. I ask unanimous consent to make this change.

The PRESIDENT. Is unanimous consent granted?

SEVERAL DELEGATES objected.

The PRESIDENT. The question is on the motion of the delegate from Allegheny (Mr. Ewing.)

Mr. BIGLER. If I understand the effect of that proposition, it is going to a very great length.

Mr. BUCKALEW. I should like to inquire of the gentleman from Allegheny if he means to include a line of stage coaches. I think we had better leave the section alone now.

Mr. CUYLER. I do not see why we do not include stage coaches and canal boats. If there is principle in it, it should cover them all.

Mr. EWING. If we mean to prohibit free passes over railroads, if we want to do that, we should use words that will be sufficient for the purpose.

Mr. ANDREW REED. I suggest to the gentleman that he use the words "or companies operating railroads."

Mr. EWING. I should be willing to adopt that; but the other language that I proposed is simpler and plainer, I think. For example, the Pennsylvania company is an entirely different thing from the Pennsylvania railroad company and it operates probably a dozen roads in this State; it does a large business in the State; and yet, under the section as it stands, that company is not prohibited from issuing free passes because it is not a railroad company either in name or in fact. The sleeping car companies are transportation companies, but they are not prohibited by this section from issuing free passes. Then so far as we have any provisions in this Constitution or so far as any law of the State is concerned, we may in the future have free transportation over all railroads in the State carried on by companies which are not railway companies.

Mr. KNIGHT. Allow me to say to the gentleman that no sleeping car company has the right to issue any railroad tickets.

Mr. EWING. But they may give passes for the use of their cars. This amendment of mine certainly will not do any harm.

Mr. CORSON. Will it apply to navigation by balloons?

The PRESIDENT. The question is on the motion of the delegate from Allegheny (Mr. Ewing.)

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

The CHAIRMAN. The committee of the whole have been instructed to amend the tenth section of the article by inserting the words, "or other transportation" before "company." The amendment will be made.

The committee rose, and the President having resumed the chair, the Chairman (Mr. Barclay) reported that the commit-

tee of the whole had inserted the amendment directed by the Convention.

Mr. HUNSICKER. I now ask unanimous consent to strike out the whole of the tenth section. ["No." "No."] Then I make the motion to go into committee of the whole for the purpose of striking out the whole of the tenth section.

Mr. D. N. WHITE. Let us have the vote on that by yeas and nays.

Mr. HUNSICKER. I second the call for the yeas and nays.

Mr. CUYLER. Mr. President: I do hope this motion may prevail. I think, as I have said before in our discussion this morning, that we have done a very absurd thing in the section we have framed and put in. I do not know what sudden virtue has come over the mind of the Convention. There are many gentlemen who vote in favor of this section whose whole walk and conduct, since they have been members of this body, has been in direct contravention of the doctrine they are voting for to-day—some of them this very morning. What sudden change in the everlasting rules of morality has taken place, that that which impressed itself upon honorable gentlemen as perfectly right to do but recently, at eleven or twelve o'clock to-day, has become at this hour of one o'clock an improper thing, and to be prevented by a constitutional provision? Let us be consistent; let our votes conform to our conduct; do not let the people of the State, when they come to vote, ask the question whether this Convention itself has acted in accordance with the doctrine of the section that is contended for to-day. Rather let us concede, what I verily believe is the fact, that the course of members of this Convention and their conduct has been the right thing, as I believe it was, and not write our own stultification into the instrument we put before the people.

Mr. CARTER. It seems to me that we should write our own stultification, and that in letters of the darkest dye, if we were now to do otherwise than affirm what we have on so many different occasions before sustained by our votes. We have decided over and over again that this tenth section is necessary, not to protect the interests of the stockholders of these great corporations, but to prevent a certain corrupting influence which seems almost to be conceded.

Mr. CUYLER. I do not concede it.

Mr. CARTER. The votes have shown this to be the view of the Convention

clearly, seventy-six to twenty-four just now, sixty to thirty on a former occasion. Why shall we eternally grind away at this weary subject? Why can it not be settled to-day and remain settled? Are gentlemen anxious by calling for the yeas and nays to record their names against this much needed reform? I am astonished at such a course; but that is the concern of the gentlemen who take it, and not mine. All that I plead for is that we come to a vote and decide the question.

Mr. BROOMALL. Mr. President: I shall vote for this motion, first, because I believe the provision to be wholly a dead-letter in the Constitution. If we want to prohibit special favors from being granted to clergymen and newspaper editors, let us couch our provision in language as will cover the ground, and not say that free passes shall not be given to these privileged classes, because by calling the thing by some other name you get around the whole difficulty. By having the gentlemen numbered so that the conductor can see number twenty-five somewhere about a person, you do precisely the same thing. If you say that they shall not give free passes that is a specific thing. Now, if you want to prohibit the evil, describe the evil and say that no incorporated common carrier shall grant special favors in the way of transportation of persons or property to anybody, and then you cover the ground.

But I am opposed to the provision for still another reason, because again it is a dead-letter. Suppose these free passes are granted in open day, what then? The railroad companies will laugh at us, dispersed all over the community and not capable of calling ourselves again together to punish them, unless the Legislature will do the same thing, and the gentleman from Columbia knows perfectly well that the Legislature will not do it.

Mr. BUCKALEW. The gentleman will allow me to say that any stockholder of a railroad company can, under this section, apply to a court and obtain an injunction to prevent the issuing of free passes.

Mr. BROOMALL. Exactly; but the judges with the passes in their pockets, notwithstanding they are made of better clay than were members of the Convention, may decide in favor of the railroad companies. We are acting upon the hypothesis that we can trust neither the Legislature nor the courts, and we put a

provision in the Constitution that requires the action of both to do any good whatever.

But I am opposed to it upon another ground. If you could say that no common carrier should carry anybody free of charge, and if you could carry it out, you would say that these common carriers could not carry for nothing a poor woman ten miles to her home if she was found in the snow in the depth of winter and if she had no money in her pocket she must starve or they must violate the Constitution. Now, I am not willing to say that no acts of charity shall be done by these corporations. The gentleman from Philadelphia who offered the amendment that is now in (Mr. Knight) seems to think the object of this Convention is to give back-bone to railroad directors. I do not think so at all; it is to prevent it from corrupting our legislators and our judges; and while I might favor some provision of that kind, yet I will not favor the provision that has been stuck in here for no other earthly purpose than to stiffen the back-bones of directors of railroad companies so that they will do their duty towards their stockholders. I will not vote for any such thing.

Mr. ARMSTRONG. Mr. President: I do not desire this vote to be taken as it will be, by yeas and nays, without putting myself upon the record as I desire to be upon this question.

I dissent entirely from the construction of law placed upon this section by the distinguished gentleman from Columbia. He pronounces upon it as though he were himself an entire Supreme Court. Perhaps it would be well for us if he were; but I say that the express provision of this section is that no free pass shall be granted to any person, and to say that the phrase "free pass" means simply the bit of paper which is granted by a railroad company is a complete evasion of the whole sense and purpose of the section; and to construe it strictly within the precise letter of this provision would prohibit every act of charity and every act which for any reason would grant free transportation to any person. And now you have embraced within it all transportation companies. I do not see the necessity for it.

I recognize many of the abuses to which gentlemen have referred; but I have spoken upon that point before, and I abate nothing of what I then said; but to put a provision of this kind in the Con-

stitution when the directors of any railroad company have the matter completely in their own power, is dignifying the abuse utterly and entirely beyond the necessities of the occasion.

I think the section ought to be stricken out, and I dissent, as I said before, entirely from the construction which the gentleman puts upon it, and I do believe that when the courts come to pass upon it, it will be held to exclude in its very terms every act of charity and every free transportation which is granted.

Now, one thing more. This attempt to limit, and define, and hedge about the discretion of the companies in this way will, in all probability, be a failure. I have before said that the means of evasion are ordinarily quite equal to the prohibitions in questions of this kind. Need I refer gentlemen to a fact illustrative of what I now say? The Constitution of Ohio in terms prohibited expressly that any city of over one hundred and fifty thousand inhabitants should directly or indirectly subscribe in aid of a railroad. A corporation was created to construct the Southern railway, running south-west from Cincinnati through Kentucky. The Legislature incorporated a trust company with certain powers, and the city of Cincinnati subscribed, I have forgotten how much, but I believe some \$5,000,000 to the trust company, and the trust company subscribed to the stock of the railroad, and the Supreme Court of that State sustained it.

Now, why shall we be putting into that Constitution, loading down the fundamental law of the State with provisions which, even if they corrected some abuses, as they probably would, are nevertheless unwise provisions and do nothing except as the gentleman from Delaware has said, give back-bone to directors. They have this question entirely within their control. The necessities of the case do not demand a restriction so dignified and grave as its insertion into the fundamental law of the State whilst its operation will be unnecessarily and unwisely to restrain and restrict their discretion beyond the limits of the abuse. We may correct something; but we do as much harm in one direction as we do good in the other; and for myself, with the views which I have before expressed, admitting that there is some abuse and, perhaps, great abuse on this question, it does not, in my judgment, justify the insertion of such an article in

the fundamental law of the State, and I shall vote against it.

Mr. DE FRANCE. It does not seem to me that it will overburden the Constitution very greatly, as the gentleman from the city (Mr. Cuyler) argues, to put in a couple of lines, and this section consists merely of two lines. One thing has occurred to my mind which very clearly shows to me that the issuing of railroad passes acts badly, and it is the action of this Convention. Mr. President, do you suppose that two-thirds of the members of this Convention would have gone home every week to attend to their law suits, to stay with their families, to look after their private business, if they had not had free passes in their pockets all the time? Do you suppose that men living within a hundred miles of this city would go home every Friday evening so that they could attend to their private business, returning here on the following Monday or Tuesday morning, if it had not been for the fact that they had free passes? One of the delegates from the city has told us that to-day members of this Convention have obtained passes to go to Pittsburg and voted against free passes. I know that to be a fact, and it only serves to prove the correctness of my argument.

Sir, this Convention would not have cost the State more than \$250,000 instead of \$500,000, if there had been no free passes granted to its members. We have hardly ever met on Saturday, and when we did meet on Saturday we could hardly ever get a quorum. We had to have calls of the House and to send for members to obtain a quorum.

What is the reason members have gone home to attend to their private business? Do you suppose that they would have paid out of their own money for going backwards and forwards ten or twelve times during our sessions, from here to Pittsburg? No, sir; because the cost of traveling would have taken up nearly the whole of their pay.

I do not wonder that gentlemen like the gentlemen from Delaware should be in favor of retaining the free pass system, for I have no doubt that he gains by it at least \$500 every year. Sir, this very free pass system has demoralized this Convention so that we have not acted as we should have done. We have not attended to the public business here as we should have done, because of that system. Those of us who live four hundred

or five hundred miles from here of course had to remain; we could not avail ourselves of the passes; but other gentlemen living near this city go home nearly every night and force us to adjourn over every Saturday, and all this waste of time results from the fact that members of the Convention have free passes. Therefore I sincerely hope this section will not be stricken out.

Mr. HUNSICKER. Mr. President: I know that the Convention is very impatient and very anxious to reach a vote, and I should not rise to say a word but for the fact that I desire to say what I do say now, for the benefit of posterity. I do not expect to change the mind of a single delegate, but I do desire to enter my protest against having the article on railroads made a laughing stock. This section is the only blot, I think, which now rests upon the article. It is, as it has been characterized by the delegate from Lehigh, (Mr. Ainey,) an impertinent interference with the private affairs of a private incorporation. You might as well declare in your fundamental organic law that no bank shall pay its teller over \$1,000 per annum. You might as well declare that no mining company shall pay its president over a certain sum. You propose here listening to the appeal of the gentleman from Philadelphia (Mr. Knight) who declares that he is a director of a railroad company to save a railroad company against the action of its own directors. He says that the boards of directors vote away thousands of dollars yearly that belongs to the stockholders. Who elects the board of directors? The stockholders. Who selects the officers of the road? The board of directors. And this section was put in here by a railroad man in order, as he said himself, that the board of directors should escape the constant run upon them for free passes when they had not the courage to say that they would not issue free passes.

Whilst I am on the floor I desire to join my dissent with that of the gentleman from Lycoming, (Mr. Armstrong,) against the construction put upon the section by the delegate from Columbia (Mr. Buckalew.) I say if this section means anything at all, the word "pass" is a general name, and includes all free transportation. It is not limited to a piece of paper upon which is written, "pass the bearer free;" it is not limited to any device whatever; but it is a full, clear and

distinct enunciation in the Constitution of a principle that a private corporation cannot carry over the line of its railway any citizen of the Commonwealth, however distinguished for civil or military achievements; that it cannot carry over its road the President of the United States, or a foreign ambassador, or pay the ordinary duties of hospitality, unless he pays his fare; and all this is done on the assumption that free passes are corrupting in their influence.

Do you intend in this Convention to correct every evil? Are you going to abolish the consequence of original sin? Can you christianize the whole State of Pennsylvania by putting so absurd a provision as this into your Constitution? What does it lead to? It is said you cannot trust the Legislature, and they have always had passes. Who constitutes the Legislature and who elects the Legislature? The people. If there has been a deplorable falling off in public morality, if public virtue has been stricken down, if the people have become impure and send impure representatives to Harrisburg, who cannot be trusted with a free pass, the fault lies with the system of your government and not with the free passes. This Convention is the embodiment of all that is pure, and I find by examination that most of the delegates here did not have any conscientious scruples against accepting a free pass. I know that some of them did not return them. For my part, I have a free pass and it has not influenced my action on this subject at all. I may say that I do not believe any pass has influenced any other member here.

I say now to the friends of the railroad article that this section will be, in my judgment, the very worst feature in it and will subject us to more ridicule and contempt before the public than any other section we have adopted. For that reason I want to place myself on record as against this absurdity.

Mr. CORBETT. I shall not trouble the Convention at any length; but I merely rise to place myself right on this record. If this was a proposition to prevent free passes or transportation to executive, legislative, judicial, or such other officers of this Commonwealth as this Convention should think politic and proper to exclude from such privileges, I should vote for it; but I fully concur with the construction given to the section by the gentleman from Lycoming, (Mr. Armstrong,) and notwithstanding the opinion of the

gentleman from Columbia (Mr. Buckalew) there is no dedging the full force and effect of this section. This is an absolute prohibition against free transportation, and would forever exclude any railroad or transportation company from transporting freely any person. I am not willing to give my sanction to such a section; and that is all I have to say on the subject, because I expect the section to pass; but for these reasons I shall record my vote against the section.

Mr. COCHRAN. I have a word or two to say on the section. I have no disposition to make trouble about going on this record. I am not particularly embarrassed on that point at all.

Mr. CORBETT. I should think the gentleman was not. He has spoken too often for that. [Laughter.]

Mr. COCHRAN. I have no trouble either about taking care of posterity. Posterity will be abundantly able to take care of itself.

Mr. BLACK. No doubt of that.

Mr. COCHRAN. But I wish to state here that when this report was first made in this Convention, in the original report there was this section:

"No railroad, canal or other corporation engaged in the business of common carriers or transporters shall permit the gratuitous transportation over its road or canal of any person or persons, except its own officers and employees and poor and indigent persons."

I prefer that section greatly in that form, if I could get it; but that section was stricken out with a whoop and a hurrah in committee of the whole.

Mr. HUNSICKER. We were more sensible than we are now.

Mr. COCHRAN. Then the gentleman from Philadelphia introduced, on second reading, his section, which still remains here, and which is the question before us, and though I greatly prefer the original report of the Committee on Railroads and Canals, yet I shall vote for his section; and lest it should be supposed that I am too fastidious about the language of that section, I shall not offer to introduce it here instead.

Mr. SIMPSON. I only want to make a single remark to the Convention. I think that the direct remedy, instead of incorporating into the Constitution a provision like this, would be to elect men to offices who could not be corrupted by free passes.

The PRESIDENT. The question is on the motion of the delegate from Mont-

gomery to go into committee of the whole for the purpose of striking out the tenth section.

Mr. AINEY. I desire to make a parliamentary inquiry. If this is voted down, will it be competent to move to insert a new section as a substitute?

The PRESIDENT. I am not going to answer questions in advance. The question has been stated. The yeas and nays have been ordered and the Clerk will call the names of delegates.

They were taken and were as follow:

YEAS.

Messrs. Achenbach, Ainey, Armstrong, Bailey, (Huntingdon,) Bannan, Biddle, Broomall, Church, Clark, Corbett, Corson, Cuyler, Darlington, Davis, Elliott, Fulton, Hay, Hazzard, Hemphill, Hunsicker, Lilly, Littleton, MacConnell, Niles, Pughe, Simpson, Wetherill, J. M., White, Harry and White, J. W. F.—29.

NAYS.

Messrs. Alricks, Baer, Baily, (Perry,) Barclay, Barr, Beebe, Bigler, Black, Brodhead, Brown, Buckalew, Calvin, Campbell, Carter, Cochran, Collins, Cronmiller, Curtin, Dallas, De France, Edwards, Ewing, Finney, Funck, Gibson, Gilpin, Guthrie, Hall, Harvey, Horton, Howard, Kaine, Knight, Landis, Lawrence, Long, M'ulloch, Mann, Mantor, Minor, Mott, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Runk, Russell, Smith, H. G., Smith, Henry W., Smith, Wm. H., Van Reed, White, David N., Woodward, Worell, Wright and Walker, *President*—64.

So the motion was rejected.

ABSENT.—Messrs. Addicks, Andrews, Baker, Bardsley, Bartholomew, Bowman, Boyd, Bullitt, Carey, Cassidy, Craig, Curry, Dodd, Dunning, Ellis, Fell, Green, Hanna, Heverin, Lamberton, Lear, MacVeagh, M'Camant, M'Clean, M'Michael, M'Murray, Metzger, Mitchell, Palmer, H. W., Parsons, Read, John R., Ross, Sharpe, Stanton, Stewart, Struthers, Temple, Turrell, Wetherill, John Price and Wherry—40.

Mr. CUYLER. I ask leave to submit a modification of the language of this section while the substance will continue. I cannot see any reason why railroad companies should be prevented from extending the courtesy they always have extended to officers of similar companies. I

cannot see any reason, for example, why the Pennsylvania railroad company, which practically owns the Pennsylvania company, should be excluded from extending a free pass to what are practically the officers of their own road, the officers of the Pennsylvania company. Therefore I desire to have the following modification:

"No railroad, railway or transportation company shall grant free passes, or passes at a discount, except to officers or employees of railroad or transportation companies."

I move to go into committee of the whole for the purpose of substituting this for the section, or I suggest that unanimous consent be given for that purpose.

SEVERAL DELEGATES. No. No.

Mr. CUYLER. Very well. I move to go into committee of the whole in order to insert it.

Mr. COCHRAN. I rise to a point of order. This Convention has, but this moment, by a direct vote, refused to strike out the tenth section. Having so refused to strike it out, is it now in order to move a substitute, a new section, striking out that which the Convention has distinctly refused to strike out?

The PRESIDENT. The Chair is of opinion that the section is open to amendment.

Mr. CUYLER. I am asked as a courtesy to withdraw my motion for a moment for some reason. I cheerfully grant the courtesy and withdraw my motion, although I do not know what the reason is.

Mr. MINOR. Then I move to go into committee of the whole for the purpose of amending the tenth section as follows: Strike out after the word "company" in the first line and insert "association or persons owning or operating a railroad shall, directly or indirectly, grant free passes or passes at a discount to any member of the Legislature, or any executive, judicial, or municipal officer, or to any other person employed in the public business of the State or of any city or county thereof, either for themselves or for the use of any other person."

The PRESIDENT. That motion is before the House.

Mr. MINOR. I think, sir, it is our duty if we attempt to strike an evil to strike it where it exists. The first purpose for which I offer this amendment is to reach directly the evil, the existence of which everybody admits, namely, the issuing of

free passes to persons in official capacity, no matter what that may be so long as it is of a public nature and affects the interests of the public.

Now, let us look for a moment at the difference between the section now offered and the section in the article. It is claimed, if I understood the gentleman from Columbia (Mr. Buckalew) aright, that section ten as it now stands in the article does not prevent a railroad company from exercising acts of charity towards persons wishing to travel free over the road, and that it reaches only the issuing of regular paper passes. Now, sir, if a railroad president can for purposes of charity say virtually to a conductor, "let such a person ride over the road without paying," what is to prevent him from saying the same thing for one who is not an object of charity, as long as the subject of charity itself is not mentioned in the article at all? Is it not true that if you open the door for one purpose or person, then, the door being opened, the railroad company can include any person they may see fit and give the same direction. Again, if they can say to the conductor as to a man not a member of the Legislature, "pass this man, he is sick," then if the same man becomes a member of the Legislature while sick, what is to prevent their saying the same thing? And if they can say that to the conductor while the man is sick, why can they not pass him free when he is well?

What I claim is that this section, under the construction some of its friends claim for it, does not reach the evil we aim at. You either have the door shut against everybody or against nobody.

The language of the section is, "shall not grant free passes or passes at a discount to *any person* except officers and employees." Now, sir, this language says who are excepted; passes to all others are directly prohibited. By what rule then will you enlarge these exceptions? *Expressio unius exclusio alterius* is a rule every lawyer understands.

If the gentlemen are right in their construction we have simply piled up around the railroad companies a huge mass of loose hemp and called it a rope.

Now, sir, are we so remediless in the English language, so poor, that we cannot strike the evil of passes to public men by specifying them? I have enlarged the section as offered originally and extended it to any persons, companies or associations, whether a railroad company or not,

provided they either own or operate a railroad line, and it is made specifically applicable to all public and municipal officers, and thus strikes the evil just where we know it exists, and we do not make directly or admit by construction any exception among those men whatever. But second, sir, if their construction is wrong and no exception exists, except as to officers and employees, then we cut off every opportunity of a railroad company doing that which is right, by way of charity or otherwise. Now, let me suppose a case. Suppose we go back seven years, there come, to the borders of our State the news of a terrific battle, and the soldiers come pouring in by hundreds and thousands wounded and dying, and this Convention, we will suppose, was at that time in session, and some man should rise here and propose as a part of the fundamental law of the land, that those persons, or any portion of them, should not be permitted to pass free over our railroads, would any man dare vote for it? Suppose, again, that the city of Memphis were close by us at this very hour, in the midst of yellow fever now devastating her population, and nurses wanted to go there or sick persons wanted to leave, what would be our case then? I want to leave to these soulless corporations the opportunity of doing a common act of charity, of doing right; and yet I want to cut them off from doing wrong. I have endeavored to do it in this amendment.

Let me state the substance of it. It reaches every person, every association, every company that either owns or operates a railroad, and prevents them from issuing any pass free or at a discount, either directly or indirectly, to any individual holding official position in this State, from judges of the Supreme Court down to city officers. I have drawn it to include all these because it is there where the evil exists.

I admit that there are other evils. I admit, for instance, that candidates sometimes have passes. I admit that railroad companies issue passes in cases where persons are not officers, where sometimes they ought not to issue them; but it seems to me to attempt to cover such cases—unless it be the case of candidates, which I am willing to vote for as an amendment—is going so far, making it so indefinite and uncertain, that the result we reach will be intangible. So far as questions of charity and acts of that kind

are concerned, I am willing to leave them entirely to the directors and stockholders of the companies. I do not think that in such matter there is any public evil as to which we are called upon to protect the stockholders against their own officers. That is a matter of theirs; and until it rises up to the proportions of a public evil so great as to require a corrective in the organic law of the land or by the Legislature, we ought not to undertake to reach it. Then I say the tenth section does not cut off the power of doing good, or it does not on the construction which has been here given to it cut off the power to do evil.

Mr. BEEBE. I rise chiefly to say that my objection to the proposition of the gentleman from Crawford is that it does not cover the whole ground; it enables the railroad companies to issue any amount of free passes to secure the election of all these officers, and then prohibits them having the use of them afterwards.

Mr. CUYLER. I ask the gentleman if he would vote for it with that modification? Would he vote for this proposition if that amendment were made to it?

Mr. BEEBE. If I cannot retain the section as it is, I would, but I believe the section as it is fully covers the purpose of the amendment.

Mr. CUYLER. Now, even at the risk of wearying the Convention, I want to say half a dozen sentences. The officers of the State, the State may reach and punish if they violate its law, whether organic or acts of the Legislature. The officers of these corporations, taking the view taken by the gentleman from Allegheny (Mr. Howard) when this subject was up before, you cannot reach and punish unless you write into this section some solemn guarantee such as they may be hanged, drawn, and quartered, or some other mild form of punishment like that which was talked of at that time! It is simply perfectly powerless to accomplish any result unless you put the penalty there. That is the way the gentleman from Allegheny argued, with great force. But the officers of the State you can reach. When this proposition is modified in the form now suggested it is practical, real and effective; it touches an actual ill and works out a positive good; but in the language used in the tenth section itself, unless the suggestion of the gentleman from Allegheny were added to it, it would be entirely nugatory.

Mr. BARCLAY. For the benefit of that

posterity which the gentleman from Montgomery (Mr. Hunsicker) speaks of, I call for the previous question.

The PRESIDENT. The gentleman from Berks calls for the previous question. ["No!" "No!"]

Mr. BUCKALEW. I submit to the gentleman that if nobody wants to speak we take the vote.

Mr. BARCLAY. I withdraw the call if nobody wants to talk.

The PRESIDENT. The call is withdrawn.

Mr. BUCKALEW. I hope this amendment will be voted down, but I will not discuss it.

The PRESIDENT. The question is on the motion of the delegate from Crawford (Mr. Minor.)

Mr. HUNSICKER. I call for the yeas and nays.

Mr. CUYLER. I second the call.

Mr. FULTON. I am paired with Mr. Campbell on this question. Otherwise I would vote "yea."

The yeas and nays were taken, and resulted as follow:

Y E A S.

Messrs. Ainey, Armstrong, Balley, (Huntingdon,) Barr, Brodhead, Broomall, Clark, Corbett, Corson, Cuyler, Darlington, Davis, Elliott, Ewing, Gibson, Hazzard, Hemphill, Howard, Hunsicker, Lilly, Long, Minor, Niles, Patterson, T. H. B., Pughe, Read, John R., Reed, Andrew, Stanton, Wetherill, J. M. and White, Harry—30.

N A Y S.

Messrs. Achenbach, Alricks, Andrews, Baer, Bally, (Perry,) Baker, Bannan, Barclay, Beebe, Biddle, Brown, Buckalew, Calvin, Carter, Cochran, Cronmiller, Dallas, De France, Edwards, Fell, Funck, Gilpin, Guthrie, Hall, Knight, Landis, Lawrence, Littleton, M'Culloch, M'Murray, Mann, Mantor, Mott, Palmer, G. W., Patterson, D. W., Patton, Porter, Purman, Purviance, John N., Purviance, Sam'l A., Rooke, Runk, Russell, Smith, H. G., Smith, Henry W., Smith, Wm. H., Turrell, Van Reed, White, David N., White, J. W. F., Woodward, Worrell and Walker, *President*—53.

So the motion was not agreed to.

ABSENT.—Messrs. Addicks, Bardsley, Bartholomew, Bigler, Black, Bowman, Boyd, Bullitt, Campbell, Carey, Cassidy, Church, Collins, Craig, Curry, Curtin, Dodd, Dunning, Ellis, Finney, Fulton, Green, Hanna, Harvey, Hay, Heverin,

Horton, Kaine, Lambertson, Lear, MacConnell, MacVeagh, M'Camant, M'Clean, M'Michael, Metzger, Mitchell, Newlin, Palmer, H. W., Parsons, Reynolds, Ross, Sharpe, Simpson, Stewart, Struthers, Temple, Wetherill, Jno. Price, Wherry and Wright—50.

Mr. CUYLER. I now ask leave to present the modification of the language which I before suggested and withdrew as a courtesy. I hope it will be unanimately accorded.

Mr. D. N. WHITE and OTHERS. No.

Mr. CUYLER. Then I move to go into committee of the whole for the purpose of substituting in lieu of the tenth section the following:

"No railroad, railway, or transportation company shall grant free passes or passes at a discount, except to officers or employees of railroad, railway, or transportation companies."

This simply differs from the tenth section, as written in the instrument, in permitting the railroads to extend the courtesy to sister roads that they have always been accustomed to do. Beyond that it has no influence whatever. I did hope it would be unanimately agreed to.

Mr. KNIGHT. In answer to the gentleman's proposition, I will state that as long as I have been connected with the Pennsylvania railroad company as a director, I have not had a pass over the Philadelphia, Wilmington and Baltimore railroad that connects with it, nor over the Camden and Amboy road that connects with it. Now, I do not see any necessity for opening this question and having all these railroads to issue passes backward and forward which may be handed over to other parties to travel upon.

Mr. CUYLER. I listen to the gentleman with amazement, for I know that the Camden and Amboy, being part of his own line, is covered by the general pass that he has. If it is not so, it is the purest accident in the world.

Mr. KNIGHT. I was referring to that road when it was in the hands of the Camden and Amboy company.

The PRESIDENT. The question is on the motion of the delegate from the city (Mr. Cuyler.)

The motion was not agreed to.

Mr. BUCKALEW. I desire to have the thirteenth section of this article transferred to the schedule, and I move to strike out the section with that object. The Committee on Schedule have it before them and will report it. The Com-

mittee on Schedule have had their report referred back to them, and they have this section before them, and will report it there. I move to strike it out here, because it belongs to the schedule, being a temporary arrangement in regard to the duties of the Secretary of Internal Affairs.

Mr. COCHRAN. I hope this motion will not prevail. The section, in my judgment, does not belong to the schedule. It is a substantive provision conferring permanent powers on one of the officers of this State, powers of great extent and importance. The office of the schedule is merely to bridge over the interval between the old and the new Constitution, to provide for the arrangements that are necessary in order to make this Constitution work easily. Now, here in this thirteenth section it is said that not only shall the duties of the Auditor General be transferred to the Secretary of Internal Affairs, but he shall have a general supervision of the corporations subject to such regulations as shall be provided by law, and may require special reports from them. Now, sir, this is a substantive provision of the article. It confers general permanent powers on one of the officers of this State, powers of very great importance. Those words "general supervision over all corporations," it will be observed, are words which almost make him a commissioner or a board of commissioners of railways; and if he is the officer that he ought to be and discharges his public duties as he should do, he will be clothed with powers which will enable him greatly to regulate, greatly to reform, greatly to circumscribe the action of these companies which has hitherto been complained of, and which this Convention may not have met in the particular article under consideration. I think this section should be kept in the body of the Constitution and not attached to a mere appendage which is in its nature and operation intended to be and really would be merely temporary.

Mr. BUCKALEW. I must be permitted to say that I think the Committee on Railroads are more particular about unimportant matter than any one of our other organizations of that character. The great body of this section is temporary—provides for details. The clause in the latter part of it, to be sure, will have permanent effect; but one half of the schedule is permanent and it will always be printed in connection with the Constitution, and therefore that is no objection.

This thing might be done by the Committee on Revision, and no doubt they will make such a report if the question is left open, because they will treat this article just as they have all the other articles, transferring sections analogous to this into the schedule, where they are now before you in the report of that committee. It is nothing of substance, and I think the Committee on Railroads might be satisfied if their section is in one place as well as in another. However, I care nothing about it. I made the motion to save trouble.

Mr. KAINE. I hope the motion to transfer this section to the schedule will prevail. I do not see why the chairman of the Committee on Railroads should be so tenacious upon a matter so small as this. It ought not to go into an article of the Constitution in my opinion, and I think the chairman of that committee ought to pay some regard to the opinions of the gentlemen on this floor differing a little from his own. I hope that another section in this article will be transferred to another article; that is, the section in regard to taxation. It does not properly belong here, and should be in the other article, as was provided in the report of the committee of seven. If those two things are done, then I shall be willing and ready to vote for this article; but if they are left as they are, I doubt very much whether I shall not vote against it on its final passage.

The PRESIDENT. The question is on the motion of the delegate from Columbia (Mr. Buckalew.)

Mr. HOWARD. I call for the yeas and nays.

Mr. BUCKALEW. I second the call.

The yeas and nays were taken, with the following result:

YEAS.

Messrs. Armstrong, Barr, Brodhead, Broomall, Brown, Buckalew, Church, Corbett, Corson, Cronmiller, Curtin, Cuyler, Dallas, Darlington, De France, Edwards, Fulton, Hunsicker, Kaine, Lilly, Long, Mann, Niles, Palmer, G. W., Patterson, D. W., Patten, Porter, Pughe, Purman, Read, John R., Reed, Andrew, Runk, Smith, William H., Turrell, Wetherill, J. M., White, David N., Worrell and Walker, *President*—38.

NAYS.

Messrs. Ainley, Alricks, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker,

Beebe, Biddle, Calvin, Campbell, Carter, Clark, Cochran, Ewing, Finney, Funck, Gibson, Gilpin, Guthrie, Harvey, Hay, Hazzard, Hemphill, Horton, Howard, Knight, Landis, Lawrence, MacConnell, M'Culloch, M'Murray, Mantor, Minor, Patterson, T. H. B., Purviance, John N., Purviance, Sam'l A., Reynolds, Russell, Smith, H. G., Smith, Henry W., Van Reed, White, Harry, White, J. W. F., Woodward and Wright—45.

So the motion was not agreed to.

ABSENT—Messrs. Achenbach, Addicks, Andrews, Bannan, Barclay, Bardsley, Bartholomew, Bigler, Black, Bowman, Boyd, Bullitt, Carey, Cassidy, Collins, Craig, Curry, Davis, Dodd, Dunning, Elliott, Ellis, Fell, Green, Hall, Hanna, Heverin, Lamberton, Lear, Littleton, MacVeagh, M'Camant, M'Clean, M'Michael, Metzger, Mitchell, Mott, Newlin, Palmer, H. W., Parsons, Rooke, Ross, Sharpe, Simpson, Stanton, Stewart, Struthers, Temple, Wetherill, John Price and Wherry—50.

Mr. BARCLAY. Now I renew the motion I made a short time since. I call for the previous question on the article in order to stop further amendments and further argument.

Messrs. Hunsicker, W. H. Smith, Horton, H. W. Smith, D. N. White, Funck, Van Reed, Edwards, Corson, Finney, Baker, Calvin, McCulloch, Russell, S. A. Purviance, Porter, MacVeagh, Clark, Guthrie, Pughe and Church seconded the call.

The PRESIDENT. Shall the main question be now put?

Mr. CORBETT. On that question I call for the yeas and nays.

Mr. CUYLER. I second the call.

The yeas and nays were taken and resulted as follow:

Y E A S .

Messrs. Andrews, Baer, Bally, (Perry,) Baker, Barclay, Barr, Beebe, Calvin, Campbell, Carter, Church, Clark, Corson, De France, Edwards, Elliott, Ewing, Finney, Funck, Guthrie, Hazzard, Horton, Howard, Hunsicker, Knight, Lawrence, Lilly, Long, MacConnell, M'Murray, Mann, Mantor, Minor, Niles, Palmer, G. W., Patterson, T. H. B., Porter, Pughe, Purman, Purviance, John N., Purviance, Sam'l A., Reed, Andrew, Reynolds, Russell, Smith, Henry W., Smith, William H., Van Reed, White, David N. and Walker, *President*—50.

N A Y S .

Messrs. Alricks, Armstrong, Bailey, (Huntingdon,) Biddle, Brodhead, Broomall, Brown, Buckalew, Corbett, Curtin, Cuyler, Dallas, Darlington, Fulton, Gibson, Gilpin, Harvey, Hemphill, Kaine, Landis, Read, John R., Runk, Smith, H. G., Turrell, Wetherill, J. M., White, Harry, White, J. W. F., Woodward, Worrell and Wright—20.

So the main question was ordered to be put.

ABSENT—Messrs. Achenbach, Addicks, Ainey, Bannan, Bardsley, Bartholomew, Bigler, Black, Bowman, Boyd, Bullitt, Carey, Cassidy, Cochran, Collins, Craig, Cronmiller, Curry, Davis, Dodd, Dunning, Ellis, Fell, Green, Hall, Hanna, Hay, Heverin, Lamberton, Lear, Littleton, MacVeagh, M'Camant, M'Clean, M'Culloch, M'Michael, Metzger, Mitchell, Mott, Newlin, Palmer, H. W., Parsons, Patterson, D. W., Patton, Rooke, Ross, Sharpe, Simpson, Stanton, Stewart, Struthers, Temple, Wetherill, John Price and Wherry—54.

The PRESIDENT. The question is on the passage of the article.

Mr. EDWARDS. On that I call for the yeas and nays.

Mr. CORBETT. I second the call.

Mr. TURRELL. I call for the reading of the article.

Mr. DALLAS. So do I. I want to hear the article read.

The CLERK read the article as amended, as follows:

SECTION 1. All railroads and canals shall be public highways, and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage, and cars, loaded or empty, without delay or discrimination.

SECTION 2. Every railroad and canal corporation organized in this State shall maintain an office therein, where transfers of its stock shall be made, and where its books shall be kept for inspection by any stockholder or creditor of such corporation, in which shall be recorded the

amount of capital stock subscribed or paid in, and by whom, the names of the owners of its stock and the amounts owned by them respectively, the transfers of said stock, and the names and places of residence of its officers.

SECTION 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

SECTION 4. All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State, or coming from or going to any other State. Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction at any more distant station. But excursion and commutation tickets may be issued at special rates.

SECTION 5. No railroad, canal or other corporation, nor the lessees, purchasers or manager of any railroad or canal corporation, shall consolidate the stock, property or franchises of such corporation with, nor lease, purchase, or in any way control any other railroad or canal corporation, owning or having under its control a parallel or competing line; nor shall any of the officers of such railroad or canal corporation act as an officer of any other railroad or canal corporation owning or having the control of a parallel or competing line; and the question whether railroads or canals are parallel or competing lines shall, when demanded by the party complainant, be tried by a jury, as in other civil issues.

SECTION 6. No incorporated company doing the business of a common carrier shall, directly or indirectly, prosecute or engage in mining or manufacturing articles for transportation over its works, nor shall such company, directly or indirectly, engage in any other business than that of common carriers, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business; but any mining or manufacturing company may carry products of its mines and manufactories on its railroad or canal not exceeding fifty miles in length.

SECTION 7. No president, director, officer, agent or employee of any railroad or canal company, shall be interested directly or indirectly in furnishing materials or supplies to such company, or in the business or transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company.

SECTION 8. No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise; and no railroad or canal company, nor any lessee, manager or employee thereof, shall make any preferences in furnishing cars or motive power.

SECTION 9. No railroad, railway, or other transportation company shall grant free passes or passes at a discount, to any person except officers or employees of the company.

SECTION 10. No street passenger railway shall be constructed within the limits of any city, borough or township without the consent of its local authorities.

SECTION 11. No railroad, canal or other transportation company, in existence at the time of the adoption of this article, shall have the benefit of any legislation by general or special laws, except on condition of complete acceptance of all the provisions of this article.

SECTION 12. The existing powers and duties of the Auditor General in regard to railroads, canals and other transportation companies, except as to their accounts, are hereby transferred to the Secretary of Internal Affairs, who shall have a general supervision over them, subject to such regulations and alterations as shall be provided by law; and in addition to the annual reports now required to be made, said Secretary may require special reports at any time upon any subject relating to the business of said companies from any officer or officers thereof.

SECTION 13. The General Assembly shall enforce by appropriate legislation the provisions of this article.

Mr. BUCKALEW. I ask that by unanimous consent the Clerk correct the grammar in the fifth section, fourth line, by making it read, "nor shall any officer of such railroad" instead of "any of the officers."

The PRESIDENT. If there be no objection that change will be made. ["Aye." "Aye."] The Chair hears no objection.

Mr. BUCKALEW. There is another mistake in the eleventh section. In the second line the word "future" has been dropped before the word "legislation." Without the word this would forbid the companies from the benefit of any existing legislation that they have already. I move that by common consent the word "future" be inserted.

The PRESIDENT. Will the Convention agree to that? ["Aye." "Aye."] The change is made.

Mr. CAMPBELL. Is the previous question ordered?

The PRESIDENT. Yes.

Mr. CAMPBELL. Then nothing is in order but to take the vote. There is no necessity for the change just suggested.

Mr. ARMSTRONG. Whilst we are on this we had better not be captious. Our purpose is to save time. I understand the amendment was made by common consent. No person objected at the time.

Mr. CAMPBELL. If it does not affect existing corporations, there is no necessity for putting in the word "future."

Mr. ARMSTRONG. When the section in relation to taxation was under consideration it was by common consent agreed that that should be transferred to the article on taxation. I trust it may be stricken out here and by common consent inserted there. ["No." "No."]

Mr. HOWARD. Let it stay where it is.

The PRESIDENT. The Clerk will call the names of delegates on the passage of the article.

The question being taken by yeas and nays resulted as follows:

Y E A S.

Messrs. Ainey, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Barolay, Barr, Beebe, Biddle, Brown, Buckalew, Calvin, Campbell, Carter, Church, Clark, Cochran, Corson, Curtin, Dallas, De France, Edwards, Ewing, Finney, Fulton, Funck, Gibson, Gilpin, Guthrie, Harvey, Hay, Hazzard, Hemphill, Horton, Howard, Hunsicker, Kalne, Knight, Landis, Lawrence, Long, MacConnell, M'Culloch, M'Murray, Mann, Mantor, Minor, Mott, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Purviance, Sam'l A., Read, John R., Reed, Andrew, Reynolds, Russell, Smith, H. G., Smith, Henry W., Smith, William H., Turrell, Van Reed,

White, David N., White, Harry, White, J. W. F., Woodward, Worroll, Wright and Walker, *President*—76.

N A Y S.

Messrs. Brodhead, Broomall, Corbett' Cuyler, Darlington, Elliott, Lilly, Niles, Pughe, Runk and Wetherill, J. M.—11.

So the article was passed.

ABSENT.—Messrs. Achenbach, Addicks, Bannan, Bardsley, Bartholomew, Bigler, Black, Bowman, Boyd, Bullitt, Carey, Cassidy, Collins, Craig, Cronmiller, Curry, Davis, Dodd, Dunning, Ellis, Fell, Green, Hall, Hanna, Heverin, Lambertson, Lear, Littleton, MacVeagh, M'Camant, M'Clean, M'Michael, Metzger, Mitchell, Palmer, H. W., Parsons, Rooke, Ross, Sharpe, Simpson, Stanton, Stewart, Struthers, Temple, Wetherill, Jno. Price and Wherry—46.

COUNTY OFFICERS.

Mr. HUNSICKER. I move that we proceed now to the consideration of article number fourteen, on county officers, which was reconsidered the other day on my motion.

The motion was agreed to, and the Convention resumed the consideration on third reading of article-number fourteen, on county officers.

Mr. HUNSICKER. I now move that the Convention go into committee of the whole for the purpose of striking out section five, which is in these words:

"All county officers shall be paid by salary to be prescribed by law, and all fees attached to any county office shall be received by the proper officer for and on account of the State or county, as may be directed by law; the annual salary of any such officer and his clerks shall not exceed the aggregate yearly amount of fees collected by him."

And inserting in lieu thereof:

"The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive into the treasury of the county or State, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants, all county officers shall be paid by salaries, and the salary of no such officer shall exceed the aggregate of fees of such office received and accounted for in the preceding year."

One word of explanation will suggest the propriety of this amendment. The

section as it stands provides that "the annual salary of such officer and his clerks shall not exceed the aggregate yearly amount of fees collected by him." The attention of the Convention was to make the officers salaried where they could be paid by salaries. In some portions of the State it would not be possible to pay officers by salaries. It will also be observed it is provided that the salary of no officer shall exceed the fees of the office. Well, the county commissioner of Montgomery county receives no fees at all, and the county auditor of that county receives no fees, and the consequence is that if this section be allowed to remain unchanged those officers would get nothing at all.

Mr. KATNE. What salaries do those officers receive?

Mr. HUNSICKER. The county commissioners receive \$800 per annum. The director of the poor receives \$200 per annum, but they receive no fees at all.

This substitute provides that the compensation of county officers shall be regulated by law. That will leave it in the power of the Legislature to pass acts of Assembly regulating the pay of county officers in the several counties, either by the payment of fees or by the regular salaries. In all cases where a county officer is salaried if there are any fees attached to that office which he would be authorized to receive, then the substitute provides that those fees shall be paid into the State or county treasury as may be provided by law. In the cities of Philadelphia and Pittsburg, there have been abuses in regard to the enormous sums that these city and county officers have received and the last clause of this section makes it obligatory upon the Legislature to pay those officers by salaries, because the substitute provides that county officers in counties containing over 150,000 inhabitants shall be paid by salaries. In those cases all the fees received by these officers must be paid into the county or State Treasury, in conformity with the provisions of the first clause of this substitute. Then the latter clause of it is, that the salary of any such officer shall not exceed the aggregate of fees of such office received and accounted for in the preceding year.

It will be perceived that by the section as it stands, as far as the salary of sheriff, who is paid by fees, is concerned, the salary of sheriff will not be fixed until the end of his three year term, because

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you cannot assume what the salary will be until you actually know what amount of fees he did receive. Therefore, if this substitute be adopted, it will meet every objection that now exists to the article on county officers.

Mr. D. W. PATTERSON. I think something of this kind should be passed. This fifth section is very awkward when we consider officers do not get any fees at all. For instance, jury commissioners, county prison inspectors and some other county officers get no fees. County auditors get no fees. This substitute leaves the subject where it ought to be left, with the Legislature, to prescribe what salary they ought to receive. But I do not like the last words. I think the delegate from Montgomery should insert them in his amendment.

Mr. CORSON. What are they?

Mr. D. W. PATTERSON. Saying that the salary of no such officer shall exceed the aggregate amount of fees of the preceding year. Things may vary very much; valuations of money may change; and it may be very difficult to regulate that by any act of Assembly. I would prefer that that part should be changed. I think it should not be inserted there, but otherwise I certainly think the substitute is to be preferred to the original section.

The PRESIDENT. The question is on the motion of the gentleman from Montgomery to go into committee of the whole for the purpose of striking out section five and inserting the substitute he has offered.

Mr. BRODHEAD. On that question I call for the yeas and nays.

Mr. WORRELL. I second the call.

Mr. ANDREW REED. I move that we do now adjourn.

Mr. BRODHEAD. I second that motion.

Mr. BUCKALEW. I hope that we shall not adjourn. I hope that we shall get through with this article so that it may be transcribed.

Mr. BRODHEAD. It should not be considered at this late hour with so thin a House.

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

Mr. HARRY WHITE. On that motion I call for the yeas and nays.

Mr. BRODHEAD. I second the call.

Mr. DARLINGTON. I ask that the amendment be read.

The PRESIDENT. It will be read.

The CLERK again read the proposed substitute.

Mr. BRODHEAD. The question is, I understand, upon the motion to adjourn.

The PRESIDENT. Yes, sir.

Mr. BRODHEAD. Then I hope the House will adjourn, for it is too late today to consider a subject of so much importance.

Mr. S. A. PURVIANCE. I ask the gentleman from Indiana to withdraw for one moment his call for the yeas and nays. I wish to make a statement.

Mr. HARRY WHITE. I will withdraw the call, but I do not want action taken upon the subject so hastily.

Mr. BROOMALL. Well, then, withdraw the call, and let us have the statement of the gentleman from Allegheny.

The PRESIDENT. The Clerk will call the names of delegates on the motion to adjourn.

The yeas and nays were taken and were as follow, viz:

YEAS.

Messrs. Alricks, Bailey, (Huntingdon,) Baker, Brodhead, Corbett, Corson, Curtin, Cuyler, De France, Ewing, Finney, Gilpin, Hazzard, Kaine, Landis, Reed, Andrew, Smith, Henry W., White, David N., White, Harry, Worrell and Walker, *President*—21.

NAYS.

Messrs. Ainey, Andrews, Armstrong, Bailly, (Perry,) Barclay, Barr, Broomall, Brown, Buckalew, Campbell, Church, Clark, Cochran, Dallas, Darlington, Edwards, Elliott, Fulton, Guthrie, Hall, Hay, Hemphill, Horton, Howard, Hunsicker, Lawrence, Lilly, Long, MacConnell, Mann, Mantor, Minor, Mott, Niles, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Pughe, Purman, Purviance, John N., Purviance, Samuel A., Reynolds, Runk, Russell, Smith, Wm. H., Turrell, and White J. W. F.—48.

So the Convention refused to adjourn.

ABSENT.—Messrs. Achenbach, Addicks, Baer, Bannan, Bardsley, Bartholomew, Beebe, Biddle, Bigler, Black, Bowman, Boyd, Bullitt, Calvin, Carey, Carter, Cassidy, Collins, Craig, Cronmiller, Curry, Davis, Dodd, Dunning, Ellis, Fell, Funck, Gibson, Green, Hanna, Harvey, Heverin, Knight, Lamberton, Lear, Littleton, MacVeagh, M'Camant, M'Clean, M'Culloch, M'Michael, M'Murray, Metzger, Mitchell,

Newlin, Palmer, H. W., Parsons, Porter, Read, John R., Rooke, Ross, Sharpe, Simpson, Smith, H. G., Stanton, Stewart, Struthers, Temple, Van Reed, Wetherill, J. M., Wetherill, John Price, Wherry, Woodward and Wright—64.

Mr. WORRELL. I trust that the delegate from Montgomery will withdraw the latter portion of this amendment, that portion providing that in cities with a population exceeding one hundred and fifty thousand, the salaries of all county officers shall not exceed in amount the aggregate fees received and accounted for by them during the preceding year. In the city of Philadelphia there are officers, and among others our city commissioners, city treasurer and city comptroller, who receive no fees, but who are paid salaries. If this amendment is adopted, the Legislature will be compelled to fix the salaries of these officers at the amount of fees which they have received during the preceding year. They will have received no fees in this city, and as the section is intended to apply only to Philadelphia and to Pittsburg, I trust that this portion to which I have objected will be withdrawn.

Mr. HAY. The same objection which has been adverted to by the delegate from Philadelphia occurs to me. This system is applicable as well to the county of Allegheny as to the city of Philadelphia, and in that county there are officials, as in the city of Philadelphia who are paid for their services by salaries and do not collect or account for fees. At the same time, such a construction as would necessarily have to be given to this section would exclude these officers from receiving any compensation. It would only include such officers as actually did receive fees.

Mr. DALLAS. Why not say, "county officers receiving fees?"

Mr. WORRELL. It might be that they did receive one or two small fees during the year, amounting in the aggregate to no large sum; yet even if that amendment were adopted, if they received a single fee amounting to one dollar or to five dollars, the Legislature must, under the operation of this substitute, fix their salaries at no larger amount than the aggregate of these fees.

Mr. DARLINGTON. I beg leave to suggest to the delegate from Montgomery a slight modification in his amendment that will get rid of all this difficulty. Make it read:

"The annual salary of those officers to last moment of the session. It wants but whose office fees are attached shall not two minutes of three o'clock. exceed the annual aggregate of fees collected by him." The PRESIDENT. Inasmuch as this is an important subject, the Convention stands

Mr. D. N. WHITE. This is too important a subject to consider here at the very adjourned until half-past nine o'clock on Monday morning.

ONE HUNDRED AND SEVENTY-THIRD DAY.

MONDAY, October 27, 1873.

The Convention met at half-past nine o'clock A. M., Hon. John H. Walker, President, in the Chair.

Prayer by Rev. J. W. Curry.

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

LEAVES OF ABSENCE.

Mr. DE FRANCE. I have just received the following telegraphic dispatch:

"Ask leave of absence for me on account of sickness.

"MATT. EDWARDS."

I therefore ask leave of absence for Mr. Edwards.

Leave was granted.

Mr. ALBICKS. I was requested to ask leave of absence for Judge Brown. He expects to be here to-day or to-morrow, I ask leave of absence for him for two days.

Leave was granted.

Mr. MINOR asked and obtained leave of absence for Mr. Mantor until to-morrow.

Mr. BIDDLE. Mr. Turrell, of Susquehanna county, was called home last week by sickness in his family. I therefore ask leave of absence for him for a few days from to-day.

Leave was granted.

ADJOURNMENT AND EVENING SESSIONS.

Mr. COCHRAN submitted the following resolution, which was read twice and considered:

Resolved, That this Convention will close its present session on or before Friday next, at two o'clock P. M., and that in order to accomplish this object sessions be held on Tuesday, Wednesday and Thursday evenings, commencing at seven o'clock and adjourning at or before ten o'clock.

Mr. BROOMALL. It seems to me very much as if we might as well adjourn now as then. I can see the force of having evening sessions if members desire them; but I can certainly see no propriety in passing a resolution now which may trouble us and cut us off hereafter. Sup-

pose that by some accident or other there should not be a quorum present on Friday, then we would be compelled to adjourn *sine die* absolutely.

Mr. ALBICKS. I move to strike out the first clause of the resolution and insert the following, leaving the last provision to stand providing for evening sessions:

"That we will proceed with all due diligence to complete our labors and adjourn at the earliest day practicable."

The PRESIDENT. The amendment is before the Convention.

Mr. LILLY. I should be very willing to agree to that amendment added to the original resolution, retaining the latter part of the resolution that we have evening sessions in the meantime; but I think with the gentleman from Delaware, that it is useless for us to undertake to tie ourselves up now to any special time of adjournment, because we may not be able to get through by that time.

Mr. PURMAN. If it is in order I will move to amend by striking out of the resolution the provision that we adjourn on Friday, and also striking out that portion providing for a meeting on Tuesday evening, and inserting a meeting on this evening and every evening until business is concluded. I move to amend the amendment by providing for a session this evening.

Mr. NILES. That is right.

Mr. COCHRAN. When I offered this resolution, I was induced to do so by one or two considerations which I have not had an opportunity of stating. One consideration is that I think if we should now fix a day of adjournment we would work up to that time with the business that now remains before us and complete it. Another consideration is that there is one of the committees of this body which cannot discharge its duty unless the time of adjournment be fixed at some short period ahead. It will require at least two or three days before the time of adjournment, and it will be impossible for the Committee on Accounts and Expenditures to transact its business properly unless that is done.

I do not see why we cannot adjourn on Friday, and I do not see why we should not resolve that we will do so. It will be perfectly in the power of the Convention, if the exigency should arise, to rescind that part of the resolution and to postpone the day of adjournment; but I feel confident that it is the feeling of members here that we must adjourn at the earliest practicable period. If you fix that period definitely, in a resolution, we shall try to work up to it, and we shall govern ourselves, in our discussions and in the transaction of our business, accordingly. We are now close on to the first of November, and if you propose to submit this Constitution to a popular vote before January, you have little time enough; and, sir, if you do not submit it before January, in my opinion there will be a great mistake made and a great public advantage will be lost.

I think it is important that we should fix the time for our adjournment here and now, and endeavor to work up to that time without delay, and without consuming our allotted space with unnecessary discussion.

Mr. CUREY. I heartily concur in the statement made by the gentleman from York, and I do hope that this Convention will calmly reflect upon and vote for the resolution he has offered.

The PRESIDENT. The question is upon the amendment to the amendment.

Mr. DARLINGTON. What would be our condition if we upon approaching Friday should find our work not completed and we should be without a quorum?

Mr. CHURCH. We could rescind the resolution.

Mr. DARLINGTON. Would it not be absolutely imperative that we should adjourn *sine die*, because we should have no quorum to rescind the resolution? I see no necessity for fixing this adjournment to-day. I recollect very well that in the former Convention we fixed a day of adjournment again, and again, and again, and as often postponed it. For one, I am willing to work industriously and continuously so as to be ready to adjourn at any time. Let us all agree to that, and let us not spend time now, but go to work and get ready to adjourn.

Mr. J. N. PURVIANCE. I shall vote for the resolution of the gentleman from York. I believe we can close our labors on or before next Friday, if we hold evening sessions on Monday, Tuesday, Wed-

nesday and Thursday. But should we not be able to come to a definite conclusion of our work, there will be no difficulty whatever in this body on Thursday rescinding this resolution and allowing us to finish our labors. As the gentleman from York remarked, if we fix Friday as the day for adjournment, we shall in all probability work up to that day and complete our work on or before it. Otherwise we shall have a protracted session here and a protracted debate that may carry us into next week.

The PRESIDENT. The question is on the amendment to the amendment, to provide for a night session for Monday, this evening.

The amendment to the amendment was agreed to, ayes being thirty-six, noes not counted.

The PRESIDENT. The question now is on the amendment as amended.

Mr. NEWLIN. Let it be read.

The CLERK read the amendment, which was to make the resolution read as follows:

Resolved, That we will proceed with all due diligence to complete our labors and adjourn at the earliest day practicable, and with this object a session be held on Monday, Tuesday, Wednesday and Thursday evenings commencing at seven and adjourning at or before ten o'clock.

The question being put on the amendment as amended, a division was called for and the ayes were thirty-one.

Mr. LILLY. I call for the yeas and nays.

Mr. PORTER. I second the call.

Mr. DE FRANCE. I should like to hear the resolution read. Does it say *sine die*?

The CLERK. The original resolution reads as follows:

Resolved, That this Convention will close its present session on or before Friday next at two o'clock P. M., and that in order to accomplish this object sessions be held on Tuesday, Wednesday and Thursday evenings, commencing at seven o'clock and adjourning at or before ten o'clock.

Mr. Alricks moved to amend by striking out the first clause and inserting:

"That we will proceed with all due diligence to accomplish our labors and adjourn at the earliest day practicable, and that for this object sessions be held on Tuesday, Wednesday and Thursday evenings, commencing at seven and adjourning at or before ten o'clock."

Mr. Purman moved to amend, by inserting "Monday" before "Tuesday," which was adopted.

Mr. STANTON. Do I understand that if we vote for the amendment and it is adopted we adjourn *sine die* on Friday? ["No!" "No!"]

Mr. ALRICKS. The first vote was taken on the amendment and I understood it was adopted. Now, we take a vote on the resolution as amended.

The PRESIDENT. It was the amendment to the amendment that was adopted: The question now is on the amendment of the gentleman from Dauphin (Mr. Alricks) as amended.

The yeas and nays were taken and resulted as follow:

YEAS.

Messrs. Achenbach, Alricks, Baily, (Perry,) Barr, Biddle, Black, Calvin, Campbell, Carey, Carter, Curtin, Darlington, Ewing, Guthrie, Hall, Hay, Hazzard, Horton, Hunsicker, Knight, Lilly, Littleton, MacConnell, M'Clean, M'Culloch, M'Michael, M'Murray, Patterson, T. H. B., Patton, Purman, Struthers, and White, J. W. F.—32.

NAYS.

Messrs. Andrews, Bardsley, Boyd, Brodhead, Broomall, Church, Clark, Cochran, Collins, Corbett, Cronmiller, Cuyler, DeFrance, Dodd, Hanna, Howard, Kaine, Landis, Lawrence, MacVeagh, Minor, Mott, Newlin, Niles, Porter, Purviance, John N., Purviance, Sam'l A., Reynolds, Ross, Russell, Smith, Wm. H., Stanton, Wetherill, J. M., White, David N. Woodward, Wright and Walker, *President*—37.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Ainey, Armstrong, Baer, Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bartholomew, Beebe, Bigler, Bowman, Brown, Buckalew, Bullitt, Cassidy, Corson, Craig, Curry, Dallas, Davis, Dunning, Edwards, Elliott, Ellis, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Green, Harvey, Hemphill, Heverin, Lamberton, Lear, Long, M'Camant, Mann, Mantor, Metzger, Mitchell, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Pughe, Read, John R., Reed, Andrew, Rooke, Runk, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Stewart, Temple, Turrell, Van Reed, Wetherill, John Price, Wherry, White, Harry and Worrell—64.

The PRESIDENT. The question recurs on the original resolution.

Mr. RUSSELL. I move to amend the resolution by inserting "Monday" before "Tuesday," so as to have a session this evening.

The PRESIDENT. "Monday" was in the amendment just voted down.

Mr. JOSEPH BAILY. I hope we shall insert "Monday" again.

Mr. RUSSELL. I understood that the other amendment was a substitute for the whole resolution.

The PRESIDENT. The Chair will entertain the amendment. The question is on the amendment to insert "Monday," so as to have a session this evening.

The amendment was agreed to, there being on a division yeas thirty-nine; noes thirty-three.

The PRESIDENT. The question now is on the resolution as amended.

Mr. W. H. SMITH. Mr. President: I desire to inquire whether this means an adjournment *sine die*?

SEVERAL DELEGATES. Certainly.

OTHER DELEGATES. No. No.

Mr. W. H. SMITH. I hope it does not mean that; and if that is its meaning, I shall certainly vote against it. I shall propose at the proper time a resolution that when this Convention adjourn, it adjourn after appointing commissioners to hold the election, to meet at Harrisburg a few days after the election shall have been held to count the votes. ["That is it."] I do not propose that we shall adjourn this Convention until that is done. ["That is right."]

Mr. COCHRAN. I ask the gentleman from Allegheny to allow me just one minute. I sedulously avoided putting in the words "adjourn *sine die*." I put in the words "close its present session," so that the Convention will be free to act on that subject.

Mr. W. H. SMITH. Then we understand it.

The PRESIDENT. The question is on the resolution as amended.

Mr. BIDDLE and OTHERS. Let it be read.

The CLERK read as follows:

Resolved, That this Convention will close its present session on Friday next at two o'clock P. M., and that in order to accomplish this object sessions be held on Monday, Tuesday, Wednesday and Thursday evenings, commencing at seven o'clock and adjourning at or before ten o'clock.

CONSTITUTIONAL CONVENTION.

Mr. J. N. PURVIANCE. I call for the yeas and nays on the passage of the resolution.

Mr. STANTON. I second the call.

Mr. D. W. PATTERSON. I have no objection to the passage of some such resolution as this at some subsequent time, and I hope it will be postponed for the present. There is no necessity for passing it now. It can be passed whenever we see that we can get through.

The question being taken by yeas and nays, resulted as follows:

YEAS.

Messrs. Achenbach, Alricks, Andrews, Bally, (Perry,) Bardaley, Barr, Boyd, Calvin, Campbell, Carey, Carter, Cochran, Collins, Corbett, Cronmiller, Curry, De France, Elliott, Ewing, Hall, Hay, Hazzard, Horton, Hunsicker, Kaine, Landia, Lawrence, Lear, Littleton, MacConnell, MacVeagh, M'Michael, M'Murray, Newlin, Niles, Patterson, T. H. B., Patton, Porter, Furman, Purviance, John N., Purviance, Samuel A., Russell, Smith, H. G., Smith, Wm. H., White, David N., White, Harry, White, J. W. F., Woodward, Wright and Walker, *President*—50.

NAYS.

Messrs. Biddle, Black, Brodhead, Broomall, Church, Clark, Curtin, Cuyler, Darlington, Guthrie, Hanna, Howard, Knight, Lilly, M'CLean, M'Culloch, Minor, Mott, Reed, Andrew, Reynolds, Ross, Stanton, Struthers and Wetherill, J. M.—24.

So the resolution as amended was agreed to.

ABSENT.—Messrs. Addicks, Ainey, Armstrong, Baer, Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bartholemew, Beebe, Bigler, Bowman, Brown, Buckalew, Bullitt, Cassidy, Corson, Craig, Dallas, Davis, Dodd, Dunning, Edwards, Ellis, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Green, Harvey, Hemphill, Heverin, Lambertson, Long, M'Camant, Mann, Manner, Metzger, Mitchell, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Pughe, Read, John R., Rooke, Runk, Sharpe, Simpson, Smith, Henry W., Stewart, Temple, Turrell, Van Reed, Wetherill, Jno. Price, Wherry and Worrell—59.

ADJOURNMENT TILL AFTER ELECTION.

Mr. S. A. PURVIANCE offered the following resolution, which was read twice:

Resolved, That when the Convention adjourns, it will adjourn to meet the sec-

ond Tuesday after the day fixed for the election, for the purpose of examining the returns of votes polled for and against the new Constitution before proclamation shall be made by the Governor, and for the purpose of taking cognizance and disposing of frauds, if any shall be practiced at said election, and transacting such other business as may be deemed necessary and proper.

Mr. J. N. PURVIANCE. I move to amend by making the meeting to be held in this Hall. ["At Harrisburg!" "At Harrisburg!"] Well, I will say then in the State Capitol at Harrisburg, if that is more acceptable.

Mr. LITTLETON. I move to postpone the further consideration of the resolution for the present. Let us get through with our work before we discuss questions of adjournment.

Mr. MACCONNELL. I suggest that the resolution lie on the table and be printed.

The PRESIDENT. It is moved that the resolution be postponed for the present and printed.

The motion was agreed to.

SEPARATE SUBMISSION OF ARTICLES.

Mr. CARTER offered the following resolution, which was twice read and considered:

Resolved, That when a motion be made for the submission of any article to a separate vote of the people, the same shall be decided without debate.

Mr. HARRY WHITE. I rise to a point of order, that this is in the nature of a rule and must lie over for one day under our rules. I merely call attention to the fact that I find the forty-third rule to read as follows:

"That when any article or articles of amendment proposed to the Constitution shall have received three several readings, and been finally passed by the Convention, one-third of all the members of the Convention shall have the right (by motion or resolution in the usual manner) to require the separate and distinct submission to a popular vote of any such article or amendment, or separable section proposed and finally passed, as above stated, by the Convention.

My point of order is that this resolution modifies that rule; it qualifies it; and is in the nature of a new rule, and therefore must under our rules lie over one day.

The PRESIDENT. The Chair cannot see that it modifies the standing rule.

Mr. CARTER. The intention of this resolution is patent on its face. The only question for us to consider is in regard to its necessity. To me it appears perfectly obvious that unless we adopt this course we shall enter anew upon the same weary round of debate. A gentleman gets up and offers a resolution for a separate submission of some particular idea, some pet aversion perhaps of his. He cannot content himself in all probability with a mere presentation of his resolution, but he will inevitably slide into the merits of the question. Then this weary round will be again commenced. If it is only limited to five minutes, a member gets up and speaks five minutes; some other gets up and replies, and here it goes on again, a repetition of the same thoughts, because there is nothing new said.

Mr. LITTLETON. I desire to make a request to the gentleman from Lancaster. I hope he will not begin on this subject this "weary round of debate." Some of us are prepared to vote.

Mr. CARTER. Well, sir, the object is to economize time, and I am convinced that it is absolutely necessary to adopt some such proposition as this. We have talked over every one of the principles involved in the various articles of the Constitution until there is really nothing new to be said; and unless the Convention, for the purpose of economizing time, adopt a provision of this kind, instead of being ready to adjourn on Friday next, as we may if it carries, we shall be here perhaps three or four days longer. It seems to me that such a measure as this is absolutely necessary. If any new light could be shed by gentlemen on any of these subjects that we have discussed, the matter would be different, though I think it is too late now for this Convention to retrace its steps. Our work is in a measure perfected. It is the result of certain compromises, certain mutual concessions, and we are to consider it as an entirety. Our work as a whole should be put before the people. I am opposed to the submission of separate articles. I see nothing but harm in that. I will not debate that question now, but I hope this resolution will carry. Otherwise it is evident that there will be prolonged debate. It is inevitable that such a result must follow the rejection of my resolution.

Mr. HARRY WHITE. I do not understand the object of my friend from Lan-

caster in this resolution. I certainly do not understand the particulars of his resolution. Now I desire him to answer me a question. Is it his understanding and his meaning of his resolution that when a resolution is introduced for the submission of an article or a section of the Constitution to a separate and distinct vote, if one-third of the members of this Convention vote in favor of it, it shall be so submitted, without debate?

Mr. CARTER. Yes, sir; whenever a motion is made to that effect and the requisite number, be it a majority or be it two-thirds, shall rise in support of it or vote for it on a call of the yeas and nays, it will be submitted separately; if the requisite number do not rise or do not choose to vote for it on the yeas and nays, it will not be so submitted. That is the matter for decision.

Mr. HARRY WHITE. If that is the meaning of the resolution, I am in favor of it.

The PRESIDENT. The question is on the resolution.

The resolution was adopted.

PERSONAL EXPLANATION—INVESTIGATION OF CHARGES.

Mr. J. W. F. WHITE. Mr. President: I rise to a privileged question and a personal explanation. I shall detain the Convention but a very few minutes.

I hold in my hand an editorial printed in the *Pittsburg Evening Telegraph* of the twentieth and a telegraphic dispatch from Philadelphia to the same paper dated October twenty-fourth. The *Pittsburg Evening Telegraph* of Monday, October twentieth, 1873, contains the following editorial under the heading "Railroad Influence in the Constitution Convention:—"

"The news from Philadelphia, as to the action of the Constitutional Convention on the railroad article on Friday last, is not of a character that will be acceptable to the people of Pennsylvania, and more especially to the people of the west and interior. The vote on Friday, taken in connection with antecedent circumstances, shows the railroads have captured the Convention, and that there is but little hope of any substantial reform from that body. The influence that has been paramount at Harrisburg for many years asserts its supremacy in Philadelphia over a body of gentlemen that the people fondly hoped were above and beyond the reach of such dictation. We fear from the

events of the past few days, that the railroad article as it will finally go to the people will be dictated by the great railroad monopolies of the State. That operating on the facile delegates by the same questionable means that have made them masters of the Legislature, the railroad corporations will secure in the amended Constitution precisely such grants and restrictions as will best suit their purposes. The facts appear to be as follows. We gather them mainly from private letters, for the Philadelphia papers, all in the interest of the great railroad monopolies, say very little on the subject, and what they do say is not to be trusted.

"Our readers, we take it, are sufficiently familiar with the railroad article as it has been under consideration by the Convention. We have published it at length in the *Telegraph*, and explained its different provisions. When it was reached last week, the question being on its third reading and final passage, the railroad influence fought the article in every way, under the lead of such able and experienced men as Bigler, Curtin, Buckalew, Cuyler, Knight and others, but on Thursday afternoon the Convention succeeded in passing it by a large majority. But no sooner had it passed than a reconsideration was moved, and it very soon became apparent that some of the enemies of the article had voted in its favor with a view to move reconsideration and thereby gain time. 'At this point,' writes a careful friend who was present in the Convention, 'there was a brisk circulation of the principal railroad men through the Hall, among the weak-kneed delegates. The result was that the motion to reconsider was carried, and the further consideration of the article went over until this (Friday) morning. The whole of this (Friday) forenoon was spent in filibustering on other matters, evidently for the purpose of preventing action on the railroad article. At last, however, it was taken up and discussed for some time. As the discussion went on it became apparent *that last night had worked wonders among the members*, enough of them having gone over to the railroad side to enable the leaders of that party to do anything they wished. The consequence was that they had the article referred to a select committee of seven, to be appointed by the President.'

"The adjournment over on Thursday night with the railroad article hanging fire, was the great piece of strategy. It

was the application of Harrisburg tactics; a night for reflection, argument, and—why need we mince words—the downright purchase of votes by intimidation, promises or bribes. The railroad men had in the chair one ready to do their bidding, and he packed this special committee, we presume, just as the solicitor and director of the Pennsylvania railroad company on the floor desired it should be constituted. * * * * *

"Another correspondent who was on the floor of the Convention at the time the committee was carried, writes us that 'you can get no conception of the scene, or the triumphant yell of the railroad party when it was found that enough of the weak among the friends of reform had voted with them to give them a majority.'

"What this committee will report of course no one outside of the railroad ring in Philadelphia is able to predict. We presume everything in the article of value will be stricken from it, and a few harmless generalities put in to tickle the ears of the people.

"The humiliation to the people of the State of this retrograde movement, in the interest of the great monopolies and corporations, is that it seems to reduce the Convention—a body of which every one has been lavish in praise—to the dead level of the 'roosters' and 'pinchers' of the Legislature. The good name of the delegates and their honorable record goes for naught. When it became an object to change their status from representatives of the people to that of the mere tools of a giant corporation, they took service with the lobbyists and betrayed the people. The end was not reached in a fair and manly way, but by the same sort of trickery and midnight caucussing that wins the game at Harrisburg. We expect to hear by the next mail that that eminent dealer in railroad legislation, Mr. Samuel Moon, was on the floor of the Convention when the conspiracy was made a success, and possibly occupied a seat near the President's desk when the special committee was announced."

The same paper, in its issue of the twenty-fifth inst., contains the following dispatch:

"PHILADELPHIA, October 24, 1873.

"The people lost the fourth section of the railroad article yesterday afternoon (the section against discrimination or favoritism), by a vote of forty-three to forty-six. It was lost because of absentee-

ism. A few minutes before the final vote there was a test vote, and it stood fifty-four for the people to forty-seven for the railroads, showing one hundred and one delegates present. The section was lost entirely owing to that fact of absenteeism. The friends of railroad reform do not stick to their work, while the railroad men are organized.

"J. W. F. White and Edwards could have changed the vote, but they sided with the railroad interest. Barr has steadily voted on the same side.

"The section voted in the article, in place of the one (the fourth) reported by the standing committee, is very obnoxious. It has in it the words "undue and unreasonable discrimination," leaving the Legislature to judge what is "undue or unreasonable" discrimination, and these words the Convention has once rejected by over twenty majority.

"It is very strange what produces these changes of late. Possibly the fact that William J. Howard, solicitor of the Pennsylvania railroad, was on the floor of the Convention yesterday, and on consultation with some of the delegates in one of the committee rooms may have had something to do with the change. His arguments are generally weighty ones.

"If White, (J. W. F.,) Edwards and Wm. H. Smith had voted with the rest of the Allegheny county delegation, the article could have been passed in proper shape to meet the wishes of the business men and people generally of Western Pennsylvania. Nothing was expected from Barr. The vital section to Pittsburg interests was lost because our delegation was divided. The greater part stood firm, but four of the number went over.

"There is a possibility that the section as it passed may be amended to-morrow, by a full Convention. The prospect, however, is not very good that it can be done. The railroad men make their great fight on this question of discrimination.

'ANTI-MONOPOLY.'

Mr. President, I should not notice an editorial which merely criticized or censured my votes. And perhaps I should not notice any editorial remarks in the *Telegraph* which impugned my motives or charged me with corruption. But here there is something—here is a letter and a telegraph dispatch from Philadelphia, and it asserted, from "a careful friend who was present in the Convention." The letter and dispatch are evidently from the same person. The fanatical spirit, the

peculiar expressions and the similarity of style, plainly indicate they are from the same source. It is well known that the *Telegraph* has no regular correspondent here. There is no correspondent or reporter here for any of the papers of the State, except for the Philadelphia papers, and it could not have been one of these, for the editorial says, they are "all in the interests of the great railroad monopolies," and cannot "be trusted." If a reporter or casual visitor from Pittsburg had been present on both of the occasions referred, certainly some of us would have known it. Evidently they are from one who was present during all the discussion, and who for some reason felt, or pretended to feel, a deep interest in the question. Was it one of the officers or employees of this Convention? And if not one of them, who then?

Now, Mr. President, to all these and similar charges of impure motives and corrupt means, come from what quarter they may, so far as I am personally concerned, I pronounce them utterly, basely and maliciously false, and I believe the same is true of every other member of this Convention. It is an inexcusable and outrageous calumny upon this body.

Some of my colleagues and myself are accused of "going over" to the "railroad party," and of voting against the "vital interests of Pittsburg." And no doubt we are included among those whose votes were changed by the "weighty arguments"—corrupt means—used by Wm. J. Howard. I am also accused of "turning my back upon the railroad reformers," and of being marvellously "converted" to the "railroad side."

In support of these grave accusations there is no evidence but the fact of opposition to the original railroad report, and my vote for the substitute offered by the delegate from Dauphin (Mr. MacVeagh) for the fourth section of the railroad article as it stood on Thursday, the twenty-third.

When the original report of the Railroad Committee was before the committee of the whole, I expressed my views on the general subject and in opposition to most of the sections of that report. I stand to-day by the views then expressed. I have never changed an opinion on the subject since I entered the Convention. I never believed we should have a separate railroad article. My judgment was the subject should be embraced in the article on corporations. In addition to

the sections which were common to railroads and other corporations, we needed only three or four sections specially applicable to railroads. On that theory I presented to the Committee on Private Corporations, of which I was a member, several sections which were accepted by the committee and reported in their article. Among these were the following: [See Journal, p. 508.]

SECTION 2. No exclusive rights, privileges or immunities shall ever be granted by the Legislature to any person, company or corporation.

SECTION 3. All railroads, canals, highways, and other modes of public travel, transportation or communication, by telegraph or otherwise, shall be open, and equally free upon the same terms and conditions, to all the citizens of the State. No preference, favor or special privileges shall be allowed to any person, company or corporation, or discriminations made, in any case or in any manner, to the injury of citizens of the State.

SECTION 4. The Legislature shall pass no special laws giving corporate power, but all corporations shall be formed, their charters be changed or amended, and their powers and privileges be defined and regulated by general laws, which shall be uniform as to the class to which they relate. And the grant of all such charters, powers and privileges, shall be subject to the right of the Legislature to revoke, annul or change the same whenever they shall become injurious to the public, in such manner that no injustice shall be done to the corporators.

Section three was substantially the same I first offered in the committee, and which has been referred to on different occasions by two of my colleagues.

Unfortunately, as I think, the article reported by the Railroad Committee came up for consideration first. And still more unfortunately, perhaps, the article reported by the Committee on Corporations came up for consideration in committee of the whole in the absence of our chairman, Judge Woodward. The Railroad Committee were attached to their report, and helped vote out these three sections from our report.

I opposed the original railroad report, because much of it could be supplied by our report; some of it was mere legislation, and other sections were useless. I opposed the eighth section, because it prohibited excursion and commutation tickets, and prohibited any discrimina-

tions in favor of long distances or through freights. Both these points were yielded finally by that committee.

This original report contained nineteen sections, many of them very long and complicated. In the numerous changes that have been made, about three-fourths of that report have been thrown out and not one section remains in its original shape. This is pretty conclusive evidence that opposition to it was well founded.

From the very first I have advocated a few essential principles that should be placed in the Constitution, and every vote I have given has been in harmony with them, viz:

1. The principle of a free railroad law, and the perfect equality of all railroads, all possessing the same rights and no exclusive privileges by any.

2. The right to connect with any other road and have passengers and freight transmitted without delay and without discrimination.

3. Equal rights to all citizens; no preference, form or special privilege to any person, company or corporation; and no discrimination to the injury of any citizen of the State.

4. A prohibition of the consolidation of competing lines.

Three or four sections embracing these principles are all we needed, in my judgment, on the subject of railroads. Some of these should have been extended to other corporations, and all should have been in the general article on corporations.

Now, if you look at the railroad article as it finally passed, take out those sections which properly belong to other articles, and throw out two or three sections that are mere legislation, you will have left the first, fourth, fifth and eighth sections, embracing the points I have referred to.

A few words now as to the fourth section, which is characterized in the dispatch to the *Telegraph* as the "people's" section, and for not sustaining which we are so fiercely assailed.

The history of this section is a little curious. In the original report it was the eighth section, and was in these words:

SECTION 8. No corporation engaged in the transportation of freight or passengers in or through this State shall make any discrimination in charges for the carriage of either freight or passengers against the people thereof; and such corporations shall carry the person and

goods of the people of this State on as favorable terms as those of other States brought into or through this State on the works owned or controlled by such corporation, and no higher rate per ton per mile shall be charged for the transportation of goods, or higher rate per mile for passengers, than shall be charged for like service in this State to the people of other States, and the rates for the same classes of freight shall be uniform, and the charges for freights or fares for passengers shall for equal distances be the same, and a higher charge shall never be made for a shorter distance than is made for a longer distance, and no drawback shall, either directly or indirectly, be allowed.

In committee of the whole it was changed to the seventh section, and made to read thus:

SECTION 7. No corporation engaged in the transportation of freight or passengers in or through this State, shall make any discrimination in charges for the carriage of either freight or passengers between or against the people thereof, nor make a higher charge for a shorter distance than for a longer distance including such shorter distance, and no special rates or drawbacks shall, either directly or indirectly, be allowed, excepting excursion and commutation tickets. Reasonable extra rates within the limits of the charter of a company may be made in charges for any distance not exceeding fifty miles. In this form it passed second reading. On third reading it became the fourth section and in that form passed on Friday, the seventeenth.

When the report of the special committee of seven came in on Tuesday, the twenty-first, Mr. Temple moved to substitute the old article with some changes, and this fourth section was changed, by adding after the word "passengers" in the third line, these words, "of the same class," and striking out the words, "nor make a higher charge for a shorter distance than for a longer distance, including such shorter distance," so that the section then read:

"SECTION 4. No corporation engaged in the transportation of freight or passengers in or through this State shall make any discrimination in charges for the carriage of either freight or passengers of the same class, between or against the people thereof, and no special rates or drawbacks shall, either directly or indirectly, be allowed, excepting for excursion

and commutation tickets. Reasonable extra rates within the limits of the charter of a company may be made in charges for any distance from the place of shipment not exceeding thirty miles."

This charge was not made by the "railroad party" as they are called by the friends of that section. It was advocated by the chairman of the committee on Railroads (Mr. Cochran) in his speech found in the Debates, volume eight, page one hundred and forty-seven.

That substitute was carried and the fourth section was thus modified. It was for this section, as thus modified, the delegate from Dauphin offered his substitute which finally carried.

Before the modification of the section, and while it stood as it passed second reading, Mr. Carey, on Wednesday, October fifteenth, moved to strike out the section.

The yeas were forty-four, nays fifty-seven. My name is found among the nays, as will be seen by reference to Debates, vol. 7, p. 804. I thus voted to retain that section before its latest modification. I voted against the substitute of Mr. Temple, which changed it, and, as I believe, took the vitals out of it. As emasculated by its friends, I considered it worthless. It allowed railroads to make as many classes of freight and passengers as they pleased, and only prohibited discrimination between the charges for freight and passengers of the same class, allowing any latitude of discriminations between the different classes of persons as well as freight. Then by striking out the words "prohibiting greater charges for a shorter than a longer distance, it left the section absolutely without any merit.

This was apparent to all the reflecting members of the Convention, and the wonder was that all the members of the Railroad Committee did not see it. Some of them did, and united with others in sustaining the substitute offered by the delegate from Dauphin.

Believing the section to be utterly worthless in the shape it was then, I voted for the substitute first offered by the delegate from Dauphin, in these words:

"No corporation engaged in the transportation of freight or passengers shall make any discrimination in charges for transportation of either freight or passengers of the same class larger in amount than is proportioned to the expenses of such trans-

portation, and no special rates shall, either directly or indirectly, be allowed, except for excursion or commutation tickets. But persons and property transported over any railroad shall be delivered at any station within the State at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station."

That failing, I then voted for the other substitute he offered, which was the section reported by the select committee of seven, slightly modified:

"SECTION 4. All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State or coming from or going to any other State. Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station. But excursion and commutation tickets may be issued at special rates."

I am satisfied every candid man will say this is a much better section than the emasculated fourth, and I believe the members of the Railroad Committee are beginning to see it and admit it.

After the fourth section had been emasculated, I intended to offer my original section (the third in the article reported by the Committee on Corporations) as a substitute for it, and for that purpose had it prepared in this form, making it apply only to railroads:

"SECTION 8. All railroads and canals shall, upon the same terms and conditions, be equally free to all the citizens of the State. No preference, favor or special privilege shall be allowed to any person, company or corporation; and no discrimination shall be made in any case or in any manner to the injury of any citizen of the State."

Before I could get the floor, the substitute offered by the delegate from Dauphin was presented and carried. I then had it printed, and intended to offer it as a substitute for the eighth, ninth and tenth sections; but the delegate from Clearfield (Governor Bigler) got ahead of me, and his substitute for the eighth and ninth sections was adopted.

This section, I believe, was better than the fourth, eighth and ninth, because it embraced everything in them, and was more comprehensive. It also embraced the tenth, or the free pass section. It announced clearly and briefly three great principles: First, "That all railroads shall, upon the same terms and conditions, be equally free to all the citizens of the State," thus placing all upon perfect equality. Second, "That no preference, favor or special privilege should be allowed to any person, company or corporation," prohibiting all partiality or favoritism. This covered free passes when given improperly or to favorites but did not cover passes given as a charity, and for that reason was better than the tenth section. And third, "No discrimination shall be made in any case or in any manner to the injury of any citizen of the State." It allowed reasonable and just discriminations for long distances, but prohibited whatever would injure any citizen of the State. I voted against the tenth section, or the free pass section, believing a separate section on that subject, especially in the shape it finally assumed, only a blot upon our Constitution. Nevertheless, taking the article as a whole, and considering it was the best we could agree upon, I voted for it on final passage.

One word, Mr. President, in conclusion. I have had no sympathy in this Convention with the sweeping denunciations of railroad corporations. It is true they have received liberal charters from the State; but they have bestowed munificent blessings in return. They have opened and developed the vast mineral regions of our State, and brought riches and prosperity to the door of nearly every citizen. They have made Pennsylvania second to no State in the Union. We need them for the future; we cannot do without them. Their present franchises, rights and privileges are secured by their charters, and are beyond our reach. Rather than cramp and cripple all future railroad corporations, thereby increasing and strengthening the powers of those now existing, I would sooner place all future corporations on a perfect equality with them.

I have had no part in the wholesale charges of fraud and corruption at our elections and in the Legislature of the State, and do not believe it is necessary for this Convention to insert statutory provisions in the Constitution to save the people from their own ignorance or imbe-

clity. I have more faith in the people, more faith in our common humanity, and in the progressive advancement of the race.

And I think God I do not belong to that class of men who are constantly thinking evil and suspecting evil in others; whose polar star is self; who mount any hobby that seems to be popular; who float with the running tide, no matter which way it goes; and who are constantly boasting of their own virtue and impugning the motives of every man who differs with them.

Mr. BOYD. Mr. President: I offer the following—

Mr. COCHRAN. I should like to make one remark, if the gentleman will give me the opportunity.

Mr. BOYD. I have the floor and offer the following resolution:

Resolved, That—

Mr. COCHRAN. I wish merely to be allowed to say a single word in regard to the remarks of the gentleman from Allegheny.

The PRESIDENT. The gentleman from Montgomery insists on his resolution being read. It may be on this subject-matter.

Mr. COCHRAN. It is not on the subject at all, probably.

The PRESIDENT. I do not know.

The resolution of Mr. Boyd was read as follows:

Resolved, That a committee of three be appointed to investigate the matter referred to in the articles just read by Mr. J. W. F. White, with power to send for persons and papers and make report to this body.

The PRESIDENT. What order will the Convention take on the resolution? ["Second reading."]

Mr. CURTIN. Inasmuch as gentlemen of this Convention are named, I want to record my vote in favor of the investigation. I ask for the yeas and nays.

Mr. DALLAS. I second the call.

The PRESIDENT. The yeas and nays will be taken on proceeding to the second reading and consideration of the resolution.

Mr. BROOMALL. I trust the resolution may be considered as on second reading without the yeas and nays ["No!" "No!"] so that there may be a chance to say something about it. It takes time to call the yeas and nays.

The PRESIDENT. The question is on proceeding to the second reading and

consideration of the resolution, upon which the Clerk will call the yeas and nays.

The yeas and nays were taken and resulted as follows:

Y E A S.

Messrs. Achenbach, Alricks, Andrews, Baker, Bardsley, Barr, Biddle, Black, Boyd, Brodhead, Broomall, Buckalew, Campbell, Carey, Clark, Corbett, Cronmiller, Curry, Curtin, Cuyler, Dallas, Darlington, De France, Dodd, Elliott, Hanna, Hay, Hunsicker, Kaine, Knight, Lawrence, Lilly, Littleton, MacVeagh, M'Clean, M'Michael, Newlin, Niles, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Reed, Andrew, Ross, Russell, Simpson, Smith, H. G., Smith, William H., Stanton, Struthers, Temple, Wetherill, J. M., White, David N., Woodward, Worrell, Wright and Walker, *President*—59.

N A Y S.

Messrs. Bally, (Perry,) Calvin, Carter, Church, Cochran, Collins, Ewing, Guthrie, Hazard, Horton, Landis, MacConnell, M'ulloch, M'Murray, Purviance, Samuel A., Reynolds, White, Harry and White, J. W. F.—18.

So the resolution was ordered to a second reading, and it was read the second time and considered.

ABSENT.—Messrs. Addicks, Ainey, Armstrong, Baer, Bailey, (Huntingdon,) Bannan, Barclay, Bartholomew, Beebe, Bigler, Bowman, Brown, Bullitt, Cassidy, Corson, Craig, Davis, Dunning, Edwards, Ellis, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Green, Hall, Harvey, Hemphill, Heverin, Howard, Lambertson, Lear, Long, M'Camant, Mann, Mantor, Metzger, Minor, Mitchell, Mott, Palmer, G. W., Palmer, H. W., Parsons, Pughe, Read, John R., Rooke, Runk, Sharpe, Smith, Henry W., Stewart, Turrell, Van Reed, Wetherill, John Price and Wherry—56.

Mr. DALLAS. I think this subject is of sufficient importance to make it our duty to provide a committee that will be satisfactory to the entire people of the State who have read that article. I therefore propose to amend by making the number of the committee seven instead of three, so that all shades of opinion in this Convention may be represented upon it.

Mr. BOYD. I accept that modification.

The PRESIDENT. The question is on the resolution as modified.

Mr. WOODWARD. I must say that I think the gentleman from Pittsburg is attaching undue importance to the newspaper slander to which he has called our attention. Very much worse slanders have gone out of this body into the Philadelphia press over the signature of a blackguard whom somebody has admitted to a seat upon this floor, in which members of this Convention have been assailed, their conduct perverted and misrepresented, and no notice whatever taken of the fact. Mr. President, I made it a rule a long time since to live such a life that the blackguards and slanderers cannot destroy my reputation, and if there is a man or woman on earth whose opinion of me can be influenced by newspaper slander, I do not care for the good opinion of that man or woman. All the men and women of virtue and common sense that I know concur with me in despising them.

Sir, that is the way I treat a slander many times worse than that which the gentleman from Allegheny complains of. I have sat here in silence and allowed a man who has either obtruded himself upon the floor of this Convention or been introduced by an authority with which I am unacquainted, to write scandalous articles about me in the Philadelphia papers and circulate them broadcast, and I never asked this Convention to take any action on the subject.

But, sir, what I wish to say is that if we are going into an investigation of these slanders by men of no character, but who control more or less the press of the country, I think we ought to extend it further than the gentleman from Allegheny proposes. He says he wants to know who wrote the article to which he refers. I want this investigation to embrace the whole wrong if we are going into it at all, and, therefore, I hope the mover of this resolution will enlarge the inquiry so as embrace the Philadelphia slanderers as well as the Pittsburg slanderers. I want to have thorough work made of this business. Still, sir, I say, and I wish the Convention to understand me, that I defy them. My life has not been spent in a corner, and I wish the character of the men who assail it to be known; and I tell you, sir, there is not a man or woman on earth whose opinion is worth anything that is influenced by these newspaper slanders. Therefore this whole thing is a matter of no consequence; but if we must have an investigation I maintain that we

should investigate what has occurred here habitually under our own eyes as well as these sporadic cases of which we have heard.

Mr. BROOMALL. Mr. President: I am sorry that this matter has taken the course that it has. I am sorry that the gentleman from Allegheny has felt it his duty to make any allusion whatever to the article he has read here. As far as they consist of newspaper remarks upon our conduct here and our motives, the newspapers have a perfect right to comment upon our conduct and our motives, and I am perfectly willing to let them do so. As far as the allusion is to anonymous correspondents, surely this Convention is not going to get down so low as to notice anonymous correspondents of newspapers, whether they are strangers, officers or members of this body. A man who is mean enough to write an anonymous article is only dignified by being noticed. Why, sir, the man who wrote that anonymous communication would be dignified by being cowhided. Hence, I would not cowhide him if the attack had been upon me. I do not know who wrote it; neither do I care whether he be an officer, member or stranger. I desire that this whole thing shall be passed over in dignified silence, and let those who only desire notoriety, (for that is all that the writers of anonymous articles desire,) who only desire to be put into our journals, those who have hit upon this mode of acquiring notoriety by being made the subject-matter of an investigation committee, remain in the obscurity which they deserve, and from which they could not be raised in any other way than by an investigating committee or a cowhide. I shall therefore vote against this resolution.

Mr. J. W. F. WHITE. Just one word. I had no knowledge that such a motion was to be made here, and personally I do not care about it and do not want the committee appointed.

Mr. BOYD. I would gladly adopt the suggestion made by the distinguished delegate from Philadelphia (Mr. Woodward) if any charge similar or in any degree corresponding with the one under consideration had been made against this body heretofore. The charges contained in the article read by the gentleman from Allegheny are specific, specific so far as naming three members of this body as having been at least approached in a manner that indicated that they had been corrupted, together with a general charge

against other members in the same direction. Now, when a charge of that kind is made, when gentlemen are named and a general charge preferred against other members who are not named, it seems to me that this body should as an act of justice to itself cause an investigation to be made with regard to the truth of the charge.

For instance, is it true that William J. Heward, of the Pennsylvania railroad, was in a committee room seeing members of this Convention? If that is true, the people of this State ought to know it: and if he was there, they ought to know what he was doing. I would like to have Mr. Howard examined; first, to know whether he was there, and second, if he was, who he saw and what he did. This gentleman is of high responsibility and respectability, and has been dragged into this thing, and has been charged with corrupting at least some of the members of this body. Is it not due to this body, is it not due to the people of this State, that this matter should be investigated? I apprehend it is quite a different thing from allegations or criticisms made in the papers of Philadelphia or elsewhere as to the general conduct of this Convention. Those are licenses which the press is allowed and which are considered legitimate matters for discussion; but this charge is altogether different from anything of that kind. If this body should refuse to have this matter investigated, I should feel that it would be because they were fearful that the report of the committee would have a damaging effect upon a considerable number of the body. Otherwise, why not investigate it? Since this charge has been made and spread broadcast throughout the State, if no answer is given to it, what would be the fair inference on the part of the great majority of the people of this State? It would be that the silence of the body indicated that they were afraid of an investigation and that it would not be safe to have one; whereas, if an investigation is made, and it turns out that the charges preferred in the articles are baseless, it will have the result of exonerating every member of this body. It will have the effect of placing the mark of Cain upon the author of the communications as well on the correspondent who was at the time attentive as he says, to the proceedings of this body, as on the editor who assumes the responsibility of publishing these articles and telegraphic dispatches.

Now, sir, this subject cannot occupy a great deal of time. It can be investigated in a very short time; and if the committee is appointed, the result will be satisfactory not only to ourselves, but to the people of the State. And here, before I take my seat, I desire to state that I do not wish to be upon that committee, and if the resolution is adopted I request of the Chair that I shall not be placed upon the committee.

Mr. EWING. I differ entirely with the learned delegate from Montgomery in regard to the interpretation that will be put by the people of the State on our refusal to adopt this resolution. I do not think there are a dozen men in the State who will suppose that we are afraid of any investigation of the sort; but a refusal to adopt the resolution will be interpreted to mean simply what it will mean, that we do not consider the matter worth making an investigation about. I think the adoption of this resolution will be dignifying the attack to an extent to which it is not entitled.

Now, suppose that a committee were appointed to-day; it could not possibly report until after the time that we all hope to be through our sessions here. The committee would have to go to Pittsburg, I presume. The resolution contains authority to send for persons and papers. Where do we get that authority? Suppose the persons and papers do not come; what then? It will be a farce—a ridiculous, absurd farce.

I hope the members of this Convention will treat this matter as it deserves, with silent contempt. It is not the business of the Convention. My friend over the way (Mr. Barr) has a paper in which to defend himself, and I am very certain, from what I have seen heretofore, that he will not come out second best if he thinks it necessary to defend himself; and so of all the balance of the gentlemen referred to.

I do not know that this charge is any worse than charges that have been bandied about in the papers of the Commonwealth from the time we first assembled. I recollect that a few days after we met here in Philadelphia there was an article published, I think, in a Philadelphia paper, copied from a New York paper, that went over this Convention and spoke of the different members by name, and called it "Tom Scott's Convention," and sundry things of that sort. There has not been a week since we met that we

have not been in some paper abused. I have before me now a paper published in Philadelphia yesterday, which uses this language, speaking of this Convention: "If it hopes to urge its work through, without a hearing and without publication, and in the dead of winter, and shall succeed, the people of Pennsylvania will deserve any indignity and outrage that in the future as at present may be put upon them by the graduates of corrupt Legislatures, political pot-houses, or the criminal sessions, such as make up the present Constitutional Convention." [Laughter.]

That is just about as bad as anything that has been said, and you may go all over the State and find reflections in various quarters; but I hope we shall not make ourselves ridiculous by adopting this resolution.

Mr. HARRY WHITE. I voted against proceeding to the second reading of this resolution in the hope that it would not be read again, for I was opposed to the appointment of this committee, because I was satisfied that if we commenced these investigations there would be no end to them. I listened with interest to the remarks of the honorable delegate from Philadelphia, (Mr. Woodward,) who spoke of a slander against him, and requested the Convention to enlarge the powers of the committee if appointed, so that they could investigate those charges. I think I shall have a similar request to make, and I beg leave to read an article published some time ago in a newspaper in this State:

"The act of the Legislature providing for a Constitutional Convention fixed the salary of the members at \$1,000 for the entire session of the Convention, whether they continued three months or a whole year. Under this act the members of the Convention went before the people and asked to be elected. No sooner, however, was the Convention in session than a certain class of its members commenced boring the Legislature to repeal the clause fixing the salary, and allow the Convention to determine the compensation of its own members. We have been most reliably informed that in consideration of the "accommodation" asked for, the Constitutional Convention lobbyists agreed to do all they could to prevent any clause in the new Constitution that would interfere with the privilege now enjoyed by the Legislature of fixing the salary of its members. This disgraceful bargain was

consummated, and the necessary legislation enacted, leaving the members of the Convention to vote themselves as much compensation as they saw fit. The lobbyists, of whom Harry White is said to have been the chief, will doubtless do their best to fulfill their part of the bargain, but it is hoped without success. The Convention having been left free in the matter, immediately fixed the salary of its members at \$2,500. Now, nobody would pretend to say that this compensation is too much if it were a mere question of dollars and cents. When the members came before the people for their suffrages they agreed to do a certain service for an aggregate compensation of \$133,000. And now these same members are dissatisfied; and without consulting the people, vote themselves the aggregate amount of \$332,500 for services which they agreed to perform for \$133,000.

"Now, we see it stated that a considerable number of the members of the Convention are unwilling to become parties to what they consider a dishonorable act, and will refuse to accept more than \$1,000 salary, the sum originally intended as a full compensation. By the people, this salary raising in the Constitutional Convention is regarded with the same degree of disapprobation as was the retro-active salary grab in Congress."

Mr. CURTIN and OTHERS. What paper is that from?

Mr. HARRY WHITE. The *Scranton Republican*. I have had this article lying in my desk for some time, and doubtless have sustained great injury by this libellous charge. Consequently if this committee is appointed I shall, as a matter of privilege to myself personally, ask that their power be extended so that they may investigate this case also.

Mr. HAY. I felt like rising to a question of order while the gentleman from Indiana was on his feet, but I did not want to take him off the floor. It seems to me it is entirely out of order in this body for gentlemen to take advantage of their position here to re-publish these libels in our Debates. It seems to me they are making themselves liable over again to us for doing so. [Laughter.]

Mr. D. W. PATTERSON. I am sorry indeed that this Convention is about putting a matter of this kind on its Journal. There is no necessity for doing that. It looks very much as if members on this floor suspected other members of improprieties, whereas I do not believe there is

a single member on this floor who suspects any other member of being capable of taking a bribe or doing anything contrary to his strict duty. I am very sorry that anything of this sort should appear on the Journals of this Convention. While the delegate from Allegheny (Mr. J. W. F. White) asked leave to make this explanation, I was pleased to hear him say that he did not expect that a resolution of this kind would be offered. He did not ask anything of the kind. He was apparently satisfied with getting up and making his own vindication; and in my opinion that gentleman's character required nothing more, nor even that. His constituency of Allegheny has vindicated him very recently at the election and elevated him to a position of high trust and honor, and therefore I cannot regard this resolution as anything else than gratuitous, coming from my friend (Mr. Boyd) from Montgomery, and I hope, therefore, that members here will consider their time as too valuable to be expended on matters of this kind.

As has been remarked in this Convention with regard to charges made by miserable libellants in the public presses, whether anonymous or not, if we mean to do justice in one case we should extend a similar investigation to others; other delegates who have complained on this floor of similar injuries; but I am happy to find that none who have been directly thus libelled ask investigation, and I think with the gentleman from Delaware, that it would be condescending a great deal for this Convention to do anything that would look as if a member of this body considered or suspected that any other member was capable of being approached by bribe, or was capable of acting corruptly in their public capacity. I therefore hope all proceedings had on this subject, except the personal explanation of the gentleman from Allegheny, will be swept from the Journal, and ended by a vote of this Convention. I will vote against the resolution.

Mr. COCHRAN. I would not say a word on this subject, except that I desire to make a single allusion, by way of protest, to a remark that fell from the gentleman from Allegheny, (Mr. J. W. F. White,) by whom this subject was first introduced. That remark, as I understood him, was that the friends of the railroad article accepted the section which was inserted on the motion of the gentleman from Dauphin (Mr. MacVeagh) as a wise

and more satisfactory one than the one which they themselves presented. Without going into the discussion at all on that subject, I wish to enter my own protest against that. For myself, and I believe for several friends, although this does not at all enter into the merits of this question, I wish to say this much, because I do not want it to go out to the public without the opportunity of entering this protest that it was not the fact that they did so regard that section.

I regret exceedingly that the question now pending should be mooted in the Convention at all. Especially I regret that it was considered expedient to offer a resolution at this stage of our proceedings, to appoint a committee to investigate charges which have been published in the papers against members of this body. There is a certain interest in this State that has a quarrel with the Convention and has had it ever since the Convention met, and which quarrel has been to a certain extent marked with accusations which are unfounded and unjust, in order to carry out the ultimate point which these persons wish to attain; but I do not think it is necessary either for our own vindication or for any other reason to go into an investigation of any of these charges. I understand the gentleman from Allegheny (Mr. J. W. F. White) does not desire this to be done, and did not expect that any such proposition as this would be made. He considered himself sufficiently vindicated by his own statement on this floor. I do not think it would be judicious for us to proceed any further in this direction, and so believing I move to postpone the question, together with the resolution, indefinitely.

Mr. BOYD. On that motion I call for the yeas and nays.

Mr. CUYLER. As I am alluded to in the article which has been read by the gentleman from Allegheny, it is proper that I should say a few words. I do not at all accord with the gentleman from Lancaster, and with others who have spoken, that it is beneath the dignity of this body to investigate this question. The ordinary class of criticisms and censures which appear in the press, however unjust they may be to individual members are not the proper subjects of investigation here; but when a charge of bribery is squarely and directly made, and members of the Convention are named and alluded to in the article, it is due to them, it is due to the dignity of the Convention

It is due to the whole public that there should be a thorough, absolute, and scrutinizing investigation to the very bottom. Therefore, I claim it on behalf of all the members of this Convention who were alluded to in that article, and on behalf of every citizen of this Commonwealth who is alluded to in this article, that there shall be in reference to it investigation thorough, absolute and complete, and when the authorship of the article shall be established, if its author be an officer or a member of this Convention, I hope the Convention will pronounce its prompt denunciation upon him by expulsion from the body, even though it be in the last hour of its session.

Now, sir, I rise to no question of self-vindication. I agree with the gentleman from Philadelphia, the delegate-at-large, (Mr. Woodward,) as to the value of character. So far as I am concerned, I have lived in vain if my character is not sufficient to constitute an absolute response to anything that may be said in that article. Nor do I rise to any vindication of the railroad companies of this Commonwealth, for I do solemnly declare that higher dignity, more absolute observance of what propriety or duty requires than has been exhibited by the corporate interests in this State with regard to the great questions which agitated this body never was exhibited on the floor of any legislative assembly.

I challenge any man upon this floor to point to one solitary influence of any sort that has been brought to bear upon him to affect his judgment, his action, or his opinions, by any corporate power in this State, so far as this Convention is concerned. I defy any man to point to it. Look around your Hall. Have there been legislative borers here? Have there been the officers or employees of railroad companies here? Can any man on this floor produce a letter that he ever received? Dare he on his responsibility as a member of this body state that he has ever been approached by any one connected with an incorporated interest in this State otherwise than by the arts of square and pure persuasion in order to secure his judgment in reference to any question that came before this body? It cannot be done.

I would not have risen to say a word upon this subject, were it not that one who is not here on this floor has been named, to whom I owe a duty, both on account of official relation and of ardent

personal friendship, which forbids that I should be silent. Allusion has been made to William J. Howard, the general solicitor of the Pennsylvania railroad company, as I have had the honor for some years of being its general counsel. I ask any man on this floor to say that he ever knew or ever heard, excepting in the slanderous article that was read here, one single word that reflected upon the purity, the dignity and the high character of that honorable gentleman in any relation in life?

It did so occur that one day last week Mr. Howard came on the floor of this Convention, and I believe I am justified in saying that it was the second instance, during the whole of the sessions of this Convention, in which he was ever seen within the walls of this building. He came in on that day uninvited, of his own motion, to see me and to see Mr. Lamber-ton, a member from Harrisburg. He met us in the President's room, and the solitary subject of conversation was a case of the Northern Central railroad company, in which the distinguished gentleman from Dauphin and myself have the honor of being colleagues. That and that alone was the subject of conversation; and with just as much of singular delicacy, purity and propriety of conduct as has that gentleman carried himself has every man connected with the Pennsylvania railroad company carried himself during the sessions of this Convention. They have never been seen on this floor. They have never visited the members of this body at their rooms, and they have never approached the members of this body, even by letter or by any other method, personal or otherwise, as to their course. I confess that when I remember what I have seen and know of this body, and of the dignified attitude which the corporate interests of this State have maintained towards it, and when I hear such slanders as this read in your hearing by the gentleman from Allegheny, I pause to ask myself whether, after all, a vast injustice has not been done to the Legislature at Harrisburg, whether it may not be equally true in regard to that body that the same dignity and propriety of conduct has been observed toward them which has been observed toward this body? We have read similar slanders with regard to them that we have now heard read with regard to this body. We know how wrong and unjust they are here; may we not believe that they have

been equally wrong and unjust with regard to the other legislative body which has acted on this subject?

Now, Mr. President, if I may be pardoned a single word that is personal to myself, I have no apology to make for what some gentlemen have been pleased to call my relation to a great corporation, nor have I any apology to make on behalf of my distinguished friend who sits on my right, (Mr. Knight,) whom the people of this Commonwealth placed here as a just tribute to his high character and lofty citizenship to be a member of this body. I have nothing in my relation to the corporate associations of this Commonwealth to be ashamed of. I have much that I shall transmit to my children, when God calls me away as a proud inheritance, I hope and I trust. If in my day and generation in some measure and degree I may have been servicable in promoting those vast improvements in this State which the gentleman from Allegheny so eloquently characterized, it will be no matter of shame to me and to mine when I have passed away, but rather of grateful and honorable recollection.

Mr. KNIGHT. I have but a word or two to say upon this subject, as I have been alluded to in the article which has been read by the gentleman from Allegheny.

As a director of the Pennsylvania railroad company and a member of this Convention I take this opportunity to say that no officer or director of the Pennsylvania railroad company has ever said a word to me in regard to the course I should pursue here on the railroad question. Neither have I said a word to any of them. I came here as an independent citizen to do what I thought was right for the people of this State in the future. As to the gentleman who happened to be here the other day, Mr. William J. Howard, if there is a high-toned, high-minded man, a first-rate man in every respect, connected with any institution in this country, he, in my judgment, is the man. I am intimately acquainted with him, and I believe him to be one of the best men who lives in this community to-day, and I have not the slightest idea that he would come here for any improper purpose.

I have one other word to say and that is this: If the article which was read this morning emanated from any member of this Convention, in the first place, so far as I am concerned, I pronounce, it entirely false. In the second place, if the man

who wrote it or instigated it is a member of this Convention, he has not the principle of a human being; he has not in his heart manhood as large as a grain of wheat if he does not rise before the Convention and acknowledge that he was the author.

Mr. HOWARD. Mr. President: I have listened to the debate on this subject and there seems to be, from the delegate who has just taken his seat and some other persons, an intimation that there was perhaps a delegate of this Convention wrote the article signed "Anti-Monopoly." I think the best way would be to call the roll and let delegates rise in their place and say whether they wrote that article or not. That is the way to do it. I do not believe any delegate would stand on this floor and utter a wilful and deliberate falsehood. I believe that it is a malicious and mean slander on this Convention to intimate that any delegate wrote the article. I do not believe a word of it, and I believe that the man who would stand up here, Pennsylvania railroad director or not, and intimate that any delegate wrote it, is capable of any slander whatever. I do not believe that any delegate wrote that article. I suppose that paper has the means of deriving information without having correspondents that are delegates in this body, and perhaps they had as good means as the man who wrote this miserable slander in the *Sunday Transcript*, published in the city of Philadelphia? What does that paper say? It says members of this Convention are "graduates of corrupt Legislatures." What does he mean by that? That every member here who has been in the Pennsylvania Legislature is a graduate of corruption!

That is what that means. It charges them also as being graduates of "political pot houses." That comes from a Philadelphia Sunday paper! And it says here again, "or the criminal sessions, such as make up the present Constitutional Convention." Sir, members of this body are charged with holding criminal sessions, the whole body is criminal; and there is no investigation as to this. Why not? Because it is presumed that this paper, being published here in Philadelphia, and its editors have formed their opinion upon the ground? Is that the idea? It is not supposed that any delegate wrote that!

Now, Mr. President, I move that the roll be called, and let every delegate rise

in his place as his name is called and say whether he wrote that article signed "Anti-Monopoly" or not.

Mr. BROOMALL. Or instigated it.

Mr. HOWARD. Yes, or instigated it.

Mr. BOYD. Or inspired it.

Mr. CURTIN. I have a word to say. I did not at all expect the personal explanation made by the delegate from Allegheny, (Mr. J. W. F. White,) nor did I anticipate at all that the delegate from Montgomery (Mr. Boyd) would offer a resolution of inquiry, never having read that article in the newspapers or heard it read until this morning; but I understand I am named in it, and being named in the article in company with the President—I am in very good company for once—I thought it my duty to be placed upon record as voting for any measure which this Convention might adopt to reach the truth. I do not believe that the Convention is subject to influences; but inasmuch as the resolution is offered to appoint a committee I shall vote for it, and insist throughout that the committee shall be raised. I am not in favor of calling the roll of this Convention and allowing each man to purge himself. If there is a delegate on this floor mean enough to write such a communication to a newspaper, he is liar enough to deny it even after he kisses the Bible and takes an oath stronger than Judge Black could make. [Laughter.]

A man who turns calumniator, dastard and liar will perjure himself before any body, even at the horns of the altar, and I want no such vindication of members of the Convention if the matter is serious enough to be pursued. Whatever this Convention may do, for myself and for other gentlemen named in the article we insist upon being put upon the record as voting for it.

There is no use of the delegate from Indiana reading newspaper articles which relate to himself. If I commenced that process you would not adjourn on Friday. [Laughter.] I could hold you here until next Christmas, and then I should have piles still to exhaust if I read them all, and no one would be better or wiser for it. That article itself was perfectly harmless, and I must think that it was somewhat unfortunate that the delegate from Allegheny consider it necessary to make a personal explanation, and that the resolution for the appointment of a committee was offered; but it being of-

ferred those implicated should raise that committee.

Mr. President, I have never been in a caucus since it has been my honor to have the privilege of a seat on this floor. I have never been in a consultation of members of this body on any question coming before it for its consideration, except in regular committee. I have never been in caucus or communication or in a called consultation with any member of this House, and therefore all these insinuations so far as I am concerned go for nothing. But after all, when a man does right, and his conscience, and he has the approbation of that monitor, he feels all the same notwithstanding when charged with dereliction of duty or worse. I have lived now for about fifty-five years in this world, and I have found that in public affairs, in official position, in private life, when the cold intellect is at fault, let the man charged with a solemn duty take counsel from his heart which wells up to his head unalloyed purity fresh and warm from his Maker. Thus he will always be right; and the outside world may speak what they please of him and his motives.

Mr. CARTER. Mr. President: Believing that there has been ample said and full opportunity afforded for every gentleman to reply to this base aspersion either upon himself individually or upon the Convention, and that no possible good will arise from the further discussion or further agitation of this matter by a committee or otherwise; and inasmuch as we have no authority to send for persons and papers, and no possible good can arise, I move that this matter be laid on the table, ["No." "No."]

The PRESIDENT. There is a motion to postpone indefinitely now pending.

Mr. CURRY. Mr. President: I cannot let this matter pass without saying a word in relation to it. The article just read by Judge White from the *Telegraph*, published in Pittsburg, is intended to cast a very serious reflection upon the honor and integrity of the members of this Convention. The charge made in the issue of that paper to which members have referred, setting forth that the Convention has been bought up by corporations, is without foundation in fact, and false in every particular. The object of the writer was not only to cast a reproach upon the persons he chose to name, but to array the people and poison their minds against the railroads of the State.

The insinuation he makes in relation to the appointment of a committee of seven by the President, to revise the railroad article, is untrue, and destitute of facts as he is of principle. Sir, I am satisfied that no corporation has attempted to influence any member of this body by corrupt means. Every member has been free to speak and vote on every question brought before this Convention without intimidation.

Again, in relation to the Pennsylvania railroad company especially, I claim that it is to their interest, in defence of their reputation, that this charge should be thoroughly investigated, and as members of the Convention I claim that it is our right to have a committee appointed and sift this matter to the bottom.

The PRESIDENT. The question is on postponing the further consideration of the resolution indefinitely.

Mr. CURTIN. I call for the yeas and nays on that.

Mr. HUNSICKER. I second the call.

Mr. CUYLER. I hope the mover of the motion will withdraw it as an act of simple justice.

Mr. LANDIS. Nobody believes it.

Mr. CUYLER. That does not make any matter.

Mr. DARLINGTON. Are the yeas and nays ordered?

The PRESIDENT. The yeas and nays are ordered on the indefinite postponement of the resolution.

The yeas and nays were taken, and resulted as follow:

YEAS.

Messrs. Andrews, Bally, (Perry,) Bardsley, Beebe, Biddle, Black, Broomall, Calvin, Carey, Carter, Church, Cochran, Collins, Dodd, Elliott, Ewing, Fell, Guthrie, Hall, Hanna, Hay, Hazzard, Horton, Howard, Landis, Lilly, MacConnell, M' Murray, Minor, Patterson, D. W., Patterson, T. H. B., Purviance, Sam'l A., Reed, Andrew, Reynolds, Russell, Struthers and White, Harry—37.

NAYS.

Messrs. Achenbach, Alricks, Baker, Barr, Boyd, Brodhead, Buckalew, Campbell, Cassidy, Clark, Corbett, Corson, Cronmiller, Curry, Curtin, Cuyler, Darlington, De France, Hunsicker, Kaine, Knight, Lambertson, Lawrence, Lear, Littleton, MacVeagh, M'Clean, M'Culloch, M' Michael, Mott, Newlin, Niles, Patton,

Porter, Purman, Purviance, John N., Ross, Simpson, Smith, H. G., Smith, W. H., Stanton, Temple, Wetherill, J. M., White, David N., Woodward, Worrell, Wright and Walker, *President*—48.

So the motion was not agreed to.

ABSENT.—Messrs. Addicks, Ainey, Armstrong, Baer, Bailey, (Huntingdon,) Bannan, Barolay, Bartholomew, Bigler, Bowman, Brown, Bullitt, Craig, Dallas, Davis, Dunning, Edwards, Ellis, Finney, Fulton, Funok, Gibson, Gilpin, Green, Harvey, Hemphill, Heverin, Long, M'Camant, Mann, Mantor, Metzger, Mitchell, Palmer, G. W., Palmer, H. W., Parsons, Pughe, Read, Jno. R., Rooke, Runk, Sharpe, Smith, Henry W., Stewart, Turrell, Van Reed, Wetherill, J. Price, Wherry and White, J. W. F.—48.

The PRESIDENT. The question now recurs on the resolution.

The resolution was adopted.

The PRESIDENT. The Chair will announce the committee at the session this evening.

ADDRESS TO THE PEOPLE.

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

Resolved, That the Committee on Revision be, and they are hereby, directed to prepare and submit to the Convention a concise statement of the amendments made to the Constitution, in the form of an address to the people.

Mr. STANTON. I move that the resolution be postponed for the present for the purpose of getting on with business. If we do not proceed with our work we shall have to extend the time of adjournment.

Mr. NEWLIN. I move to amend that motion by making the postponement indefinite, for the purpose of saying a word in regard to this resolution.

Now, sir, each article has passed third reading, and therefore the whole substance of what this Constitution will be composed of is known to the members and can be the subject of a condensed statement to be prepared by this Convention. There will have to be some such statement. If we wait until we are through with the schedule and until all the details of the election are settled, for which there is no reason whatever, there will be no time to get up a proper address. I do not mean that this address shall contain our views as to the propriety of any action taken here, but simply that the whole bulk of the Constitution shall not be thrown out in a mass for everybody to

dig out for himself what is old and what is new, but that a brief and concise statement of the changes made may go forth from this Convention in an authoritative manner, and without any laudatory comment whatever. I therefore trust that this matter will be referred to the Committee on Revision. I withdraw my motion to postpone indefinitely.

The PRESIDENT. The motion to postpone indefinitely is withdrawn. The question recurs on the motion of the delegate from Philadelphia (Mr. Stanton) to postpone for the present.

The motion was not agreed to, the ayes being thirty, less than a majority of a quorum.

The PRESIDENT. The question recurs on the resolution.

Mr. J. N. PURVIANCE. I should like to have the resolution read.

The CLERK read the resolution.

Mr. NEWLIN. If members do not like the report when it comes in, they can reject it; but let us have this condensed statement made out.

Mr. BOYD. I call for the yeas and nays on the resolution.

Mr. DARLINGTON. I second the call.

The question being taken by yeas and nays resulted as follow :

Y E A S .

Messrs. Achenbach, Alricks, Bally, (Perry,) Baker, Bardsley, Beebe, Biddle, Brodhead, Buckalew, Calvin, Carey, Carter, Cassidy, Collins, Corson, Cronmiller, Curry, Curtin, Cuyler, De France, Dodd, Guthrie, Hay, Hazard, Horton, Howard, Hunsicker, Kaine, Landis, MacVeagh, M'Culloch, M'Murray, Minor, Mott, Newlin, Niles, Patterson, T. H. B., Patton, Purman, Purviance, John N., Purviance, Samuel A., Reynolds, Runk, Simpson, Smith, H. G., Wetherill, J. M., Woodward and Worrell—48.

N A Y S . .

Messrs. Andrews, Barr, Black, Boyd, Broomall, Campbell, Church, Clark, Cochran, Corbett, Darlington, Elliott, Ewing, Fell, Hall, Lamberton, Lawrence, Lilly, MacConnell, M'Clean, M'Michael, Patterson, D. W., Porter, Reed, Andrew, Ross, Russell, Smith, Wm. H., Stanton, Struthers, Temple, White, David N., White, Harry, White, J. W. F. and Walker, *President*—34.

So the resolution was adopted.

ABSENT.—Messrs. Addicks, Ainey, Armstrong, Baer, Bailey, (Huntingdon,) Bannan, Barclay, Bartholomew, Bigler, Bowman, Brown, Bullitt, Craig, Dallas, Davis, Dunning, Edwards, Ellis, Finney, Fulton, Funck, Gibson, Gilpin, Green, Hanna, Harvey, Hemphill, Heverin, Knight, Lear, Littleton, Long, M'Camant, Mann, Mantor, Metzger, Mitchell, Palmer, G. W., Palmer, H. W., Parsons, Pughe, Read, John R., Rooks, Sharpe, Smith, Henry W., Stewart, Turrell, Van Reed, Wetherill, Jno. Price, Wherry and Wright—51.

COMMITTEE SERVICE.

Mr. CURTIN submitted the following resolution, which was read twice :

Resolved, That James P. Barr, having been elected to fill the place of Hon. Jeremiah S. Black, be placed on the committees of which his predecessor was a member.

The resolution was adopted.

DELAWARE COUNTY.

Mr. BROOMALL. I offer the following resolution, which I ask may lie on the table, with a view of calling it up to-morrow, and I hope it will be printed in the meantime :

Resolved, That the Committee on Revision and Adjustment be directed to strike out of the article on the Legislature the words, "the county of Delaware may be united with adjoining wards of Philadelphia to form a district," in the sixteenth section, and insert in lieu thereof the words, "except where the adjoining counties have each at least one ratio of population."

The PRESIDENT. The resolution will lie on the table.

SUBMISSION OF THE CONSTITUTION.

Mr. W. H. SMITH. I offer the following resolution :

Resolved, That the Constitution, when prepared for submission, shall be submitted as a whole.

Mr. BROOMALL. I rise to a question of order. I take it that such a resolution is out of order, inasmuch as the organic law calling us into existence provides otherwise.

The PRESIDENT. The Chair is of the opinion that the resolution is out of order, as being in conflict with the law calling this Convention into being.

LEAVE OF ABSENCE.

Mr. MACVEAGH. Mr. President: I desire unanimous consent to ask at this

time for leave of absence for myself for a few days, on and after Wednesday next. I regret exceedingly the necessity of being absent in the closing days of our deliberations, although all our articles have been passed; but I go to the discharge of an important professional duty assumed when I confidently expected that our final adjournment would have taken place before this date. I desire to avail myself also of this opportunity to place on record my profound appreciation of the privilege I have enjoyed in being a member of this Convention, and my grateful recollection of the kindness and good will which I have experienced at the hands of every member of it.

Leave of absence was granted.

TELEGRAPH COMPANIES.

Mr. WOODWARD. I move that the Convention now proceed in committee of the whole to consider the report of the Committee on Private Corporations made last week.

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

The CHAIRMAN. The committee of the whole have had referred to them the report of the Committee on Private Corporations. The first and only section will be read.

The CLERK read as follows:

SECTION — Any association or corporation for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and connect the same with other lines, and the General Assembly shall, by general law of uniform operation, provide reasonable regulation to give full effect to this section. No telegraph company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph company, or acquire by purchase or otherwise any other line of telegraph.

Mr. WOODWARD. There is a word omitted here which ought to go in. The word "organized" has been left out by mistake doubtless, and I move to insert it. The first clause should read: "Any association or corporation organized for the purpose."

Mr. DE FRANCE. That can be done by unanimous consent.

The CHAIRMAN. Shall unanimous consent be given to make the amendment?

Unanimous consent was given and the amendment was made.

Mr. BROOMALL. I agree with the chairman of the Committee on Private Corporations in being in favor of the general purpose of the section. I have, however, some doubt as to whether the last sentence should not be left to the Legislature. I do not think it is prudent for us to make so sweeping a provision in the early stage of the history of telegraph lines, as that no telegraph company shall consolidate with another telegraph company. Why should not that be left open to the Legislature? With a view of getting a vote on that question and being myself in favor entirely of the first sentence, and entirely in accord with the gentleman who wrote the section in its general design, I move to amend by striking out the last sentence in order to leave that branch of the subject to the Legislature.

The clause I move to strike out is as follows:

"No telegraph company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph company, or acquire by purchase or otherwise any other line of telegraph."

Mr. WOODWARD. Mr. President: The motion of the gentleman from Delaware is about as if the play of Hamlet was under consideration and he moved to strike out the part of Hamlet. [Laughter.] That sentence is the most valuable part of this section. The abuse which that sentence is intended to prevent is this: The Western Union telegraph company has become an enormous monopoly in this land, so large and so powerful and so oppressive that the government of the United States are seriously deliberating upon taking it into the hands of the government and abolishing this monster corporation. Just as soon as enterprising citizens establish a line in Pennsylvania, the Western Union come in and buy it up, gobble it up, and thus occupy the ground exclusively to themselves. This part of the section was intended to prevent that Western Union telegraph company from monopolizing all the telegraph lines that our citizens shall establish for our convenience here in Pennsylvania, and I trust it will not be stricken out. If it be stricken out, all the rest is mere "leather and prunella."

Mr. CUYLER. If the provisions of this section would achieve the result which the gentleman who made the report al

cludes to, I would cheerfully vote for the entire section; but it is so easy to do by indirection that which this last clause seeks to prevent being done by direction that I have no faith in its accomplishing any such result. To accept the particular illustration to which he alludes, the Western Union telegraph company practically consists of some half dozen capitalists. It is just as easy for them to combine and buy up these other lines by private organizations among themselves, as it is to do it directly in the name of the company, and I do not see how that is to be prevented. I do not, therefore, conceive that the closing clause of the section can work out any practical result, and hence, I think it might as well be stricken out as far as any practical purpose that it can accomplish is concerned.

Mr. HARRY WHITE. I trust the amendment of the delegate from Delaware will not prevail. With the chairman of the Committee on Private Corporations, I sympathize entirely in the purpose of this section, and particularly the latter clause. I understood that this section, which was introduced when the railroad article was under consideration by the delegate from Northampton, (Mr. Brodhead,) was refused to be placed in the article on railroads with the understanding that it would be renewed and offered as an amendment to the article on private corporations. We have it here in its proper place, and if there is any necessity for a general law with reference to the organization and regulation of railroad corporations, there is also an equal necessity for a general law regulating the telegraph corporations.

It is very well known that the telegraph system of this country is as much a monopoly as some gentlemen think the railroad system of this country is. I have heard in the Legislature, time after time, bills read in place by representatives and Senators for the incorporation of telegraph companies between certain points. I have seen, and often, these bills referred to some committee, the proper committee, if you please, and reported with a negative recommendation, or else sleeping the sleep that knows no waking. I do not know and I do not suspect that any improper influence was resorted to to secure this end, but some influence prevailed, possibly legitimate, which prevented the proper consideration of those bills.

So much as to the general purposes of the section. It is to correct this difficulty and give relief where relief is desired that this latter sentence was put in. As to the motion of the delegate from Delaware to strike out the clause: "No telegraph company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph company or acquire by purchase or otherwise any other line of telegraph," the purpose is to protect the meaning and intention of that which precedes it. If you merely allow telegraph companies to organize between certain points and allow corporations now existing and having a large power and influence to monopolize them and control them, of course you defeat the very purpose of the free telegraph clause in our Constitution; but I conceive that this clause is necessary to carry out the spirit of the whole section, and therefore it is that I hope the amendment offered by the delegate from Delaware will not prevail.

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

The amendment was rejected.

Mr. EWING. I should like to hear from the chairman of the Committee on Private Corporations, or from some other person, the reasons for making such a broad provision as that we have here forbidding any telegraph company to consolidate with another telegraph company. When we had under consideration the article on railroads and canals, the general principles of consolidation were pretty thoroughly discussed, and I think most of us were satisfied that it was improper to prohibit the consolidation of railroads except where they would compete. It seems to me that a telegraph company might very properly be allowed to consolidate with another telegraph company, if the company proposed to be consolidated was a mere feeder to it, or if it was an extension of it. A short line consolidated with another short line might be better operated under one company than under two, and I will offer an amendment which I think will reach this case.

I move to amend by inserting in the sixth line, after the word "company," the words "owning a competing line."

Mr. HAY. I desire to suggest to my colleague that he would accomplish his purpose by inserting the word "compet-

ing" after the word "other," at the end of the sixth line, so as to make it read: "any other competing line of telegraph."

Mr. WOODWARD. It costs three hundred dollars a mile to establish a telegraph line. It is quite within the means of individuals and of corporations to have this State studded all over with telegraph lines, and it is to the interest of the people that those lines should exist, inasmuch as, if this is the case, they will be rival to each other and will thus cheapen communication. Therefore I think it is wise to forbid them to consolidate. There is not the same reason for consolidating the stock of telegraph lines that exists for consolidating railroads, which are much more expensive to build. The object of this section is to encourage individuals to establish telegraph lines anywhere in Pennsylvania where they may please to do so, and to maintain them. I hope, if this section is adopted, that we shall see Pennsylvania filled by Pennsylvania lines of telegraph which the Western Union telegraph company cannot gobble up. I hope the gentleman's amendment will not prevail.

Mr. BROOMALL. It looks to me as if it would be safest to insert the words proposed by the gentleman from Allegheny. The only way to get a competitor to the Western Union telegraph company is to allow smaller telegraph lines in the same direction to consolidate; you must begin with a small one of twenty miles and consolidate it with another of twenty miles, if you possibly can, and so get a competitor to the Western Union telegraph company. If I did not know the gentleman from Philadelphia (Mr. Woodward) as well as I do, I should think he was a stockholder in the Western Union telegraph company and desired to place in our Constitution a clause which would prohibit any new company being a competitor to that company.

Mr. MINOR. I think something of this kind should be inserted. I know in my section of the country it is frequently true that a telegraph company is formed in connection with shipping interests. After a while the shipping dies out, the line is in their hands and there is nothing to do. There is always another set of shippers that have a telegraph line up to the point where this old telegraph line begins, and they buy up that line, and, of course, thus restore business. That is not a competing line in any sense. It remains as it was originally built; only in

this way it is made fit for use. Unless this can be done it will only go to pieces and the other shippers will be compelled to build another. The evils that might result from the absorption of competing lines would be reached by putting in the word "competing," but I conceive that it is going entirely too far to prohibit the consolidation of lines where one is merely an extension of the other or where one is abandoned. In my section of the State it would only result in compelling shippers to be deprived of the benefit to be gained by extending lines, or by making existing lines lie idle and building others.

Mr. BEEBE. I trust the amendment will be inserted. It is perhaps not generally known to the members of this Convention that there are three or four counties where oil is developed, where the oil is transported to railroads through pipe lines, and every pipe line has of necessity to have a telegraph line. These telegraph lines are distinct from other business, and after the development has run down or decreased, one company sells out to the others and departs for new territory and starts business again. If these pipe lines could not acquire the telegraph lines in connection with the other apparatus, it would utterly preclude the possibility of doing business in that way. Where there is competition this may be necessary; but I ask that the word "competing" be inserted in order that these purchases and extensions of lines not competing be allowed to go on in our section.

Mr. HARRY WHITE. Where does the amendment of the gentleman from Allegheny come in?

The CHAIRMAN. After the word "competing," in the sixth line.

Mr. COLLINS. After the words "any other," in the sixth line.

Mr. EWING. If this amendment prevails, I will move to insert the word "competing" after the word "other."

The CHAIRMAN. What is your present amendment?

Mr. EWING. To insert after the word "company" the words "owning a competing line," and I will also move to insert the word "competing" after the word "other," when this is disposed of.

Mr. T. H. B. PATTERSON. Put it in now.

Mr. EWING. I will.

The CHAIRMAN. Does the gentleman from Allegheny so modify his amendment.

Mr. EWING. Yes, sir.

Mr. DARLINGTON. I beg to suggest to the gentleman from Allegheny that he also modify his amendment by adding: "and the fact of whether these lines are competing or not shall in all cases be determined by a jury." [Laughter.]

Mr. EWING. That can be done afterward.

The CHAIRMAN. The question is on the amendment.

Mr. EWING. Let the section as proposed to be amended be read.

The CLERK read as follows:

"Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines, and the General Assembly shall, by general law of uniform operation, provide reasonable regulation to give full effect to this section. No telegraph company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph."

The amendment was agreed to.

The CHAIRMAN. The question now is on the section.

The section was adopted.

The section having been concluded, the committee rose, and the Chairman (Mr. Hunsicker) reported that having considered the section reported by the Committee on Private Corporations, the committee of the whole directed him to report the same with amendments.

The PRESIDENT. The amendments will be read.

The CLERK read the amendments made in committee of the whole.

Mr. WOODWARD. I move that the Convention proceed to the second reading of the section.

The motion was agreed to.

The PRESIDENT. The section will be read.

The CLERK read as follows:

"Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines; and the General Assembly shall by general law of uniform operation, provide reasonable regulation to give full effect to this section. No telegraph company shall consolidate with or hold a controlling in-

terest in the stock or bonds of any other telegraph company, owning a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

Mr. CAMPBELL. I move to amend by striking out the words "owning a competing line" in the sixth line, and the word "competing" at the end of the sixth line; and call for the yeas and nays on that amendment.

Mr. NEWLIN. I second the call for the yeas and nays.

The yeas and nays were taken and resulted as follow:

YEAS.

Messrs. Andrews, Baily, (Perry,) Baker, Campbell, Clark, Cochran, Collins, Newlin, White, David N. and Woodward—10.

NAYS.

Messrs. Achenbach, Alricks, Barr, Beebe, Biddle, Black, Boyd, Brodhead, Broomall, Buckalew, Calvin, Cassidy, Church, Corbett, Corson, Cronmiller, Curry, Cuyler, Darlington, De France, Elliott, Ewing, Guthrie, Hall, Hay, Hazard, Hemphill, Horton, Howard, Hunsicker, Kaine, Lamberton, Landis, Lawrence, Lilly, MacConnell, MacVeagh, M'Clean, M'Culloch, M'Michael, M'Murray, Minor, Mott, Niles, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Runk, Russell, Simpson, Smith, Wm. H., Stanton, Struthers, Wetherill, J. M., White, Harry, White, J. W. F., Worrell, Wright and Walker, *President*—65.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Ainey, Armstrong, Baer, Bailey, (Huntingdon,) Bannan, Barclay, Bardsley, Bartholomew, Bigler, Bowman, Brown, Bullitt, Carey, Carter, Craig, Curtin, Dallas, Davis, Dodd, Dunning, Edwards, Ellis, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Green, Hanna, Harvey, Heverin, Knight, Lear, Littleton, Long, M'Camant, Mann, Mantor, Metzger, Mitchell, Palmer, G. W., Palmer, H. W., Parsons, Pughe, Read, John R., Rooke, Ross, Sharpe, Smith, H. G., Smith, Henry W., Stewart, Temple, Turrell, Van Reed, Wetherill, John Price and Wherry—58.

The PRESIDENT. The question is on agreeing to the section.

The section was agreed to.

Mr. WOODWARD. Now I move that the section be transcribed for a third reading.

The motion was agreed to.

Mr. WOODWARD. I now move that the Convention proceed to the third reading of this section.

The motion was agreed to, and the section was read the third time as follows:

SECTION —. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines, and the General Assembly shall, by general law or uniform operation, provide reasonable regulation to give full effect to this section. No telegraph company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

Mr. DARLINGTON. I was in hopes this would have been sent to the Committee on Revision and Adjustment to correct grammar.

Mr. CORBETT. That can be done after third reading.

Mr. DARLINGTON. Very well; if anybody chooses to let it go till then, be it so.

Mr. BLACK. What is the bad grammar? Let us hear it.

The PRESIDENT. The question is on the final passage of the section.

The section was passed.

Mr. WOODWARD. Now I move that it be ordered that the section just passed be placed in the article on Private Corporations and numbered twelve. Let me explain. The present notation of the section in that article is thirteen. One section was dropped out. The last section, which relates to the definition of corporations, is properly in its place, and I want this to come in before that section.

The PRESIDENT. The question is on the motion to transpose the section.

The motion was agreed to.

COUNTY OFFICERS.

Mr. S. A. PURVIANCE. A few days ago I submitted a resolution in reference to the submission of the Constitution. It was then laid on the table, and I now ask that it be taken from the table and read and considered.

Mr. HUNSICKER. The order for that has passed by.

Mr. MACVEAGH. Unless some article be pending—

The PRESIDENT. The article on county officers is pending as the unfinished business.

Mr. MACVEAGH. Let us get through with the articles finally.

Mr. S. A. PURVIANCE. Very well.

The PRESIDENT. Will the Convention proceed to consider the article on county officers? ["Aye!"] The article is before the Convention on third reading, and the pending question is on the motion of the gentleman from Montgomery (Mr. Hunsicker) to go into committee of the whole to make an amendment to the fifth section.

Mr. HUNSICKER. I ask unanimous consent to modify the amendment I offered as a substitute for section five of this article. I ask unanimous consent to withdraw the motion and submit it in a modified form.

Mr. BLACK. How do you propose to modify it?

Mr. HUNSICKER. My modification is to strike out the words "of such office received and accounted for in the preceding year," and insert "earned during his term and collected by or for him;" to strike out the word "no," in the same line, and insert after the word "officer," the words "and his clerks heretofore paid by fees," and to insert the word "not" after the word "shall," so as to read:

"The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried, shall pay all fees which they may be authorized to receive, into the treasury of the county or State, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants, all county officers shall be paid by salary, and the salary of such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him."

Mr. DARLINGTON. If I understand the object of this amendment it is to provide one mode of regulating the compensation of county officers in large counties, Philadelphia and Allegheny and perhaps others, and another mode for all the others. I was under the impression that this Convention had come to a pretty unanimous conclusion on the general subject that all county officers should be paid by salary, provided the salaries shall not exceed the amount of fees they receive. I do not know why we should change that. No sufficient reason has been given to my understanding for changing it. I think it is a good rule to apply to all the counties of the State. Wherever there are large amounts of fees received by public off-

cers, let the salaries be fixed and the excess go into the treasury. I understand this has been applied in fact in the county of Allegheny and has been productive of a very large revenue to the Commonwealth. In the county of Philadelphia the application of this rule would unquestionably, if honestly enforced, result in the acquisition of a very large sum in the city treasury. I do not think it would add anything in our county or the counties about us; but the principle is right. Let no man have a special interest in getting fees by stealth or by fraud to put into his own pocket. Provide if you can guards that shall prevent any abuses of this kind or any extortion upon the community, and the best plan probably that can be adopted is to say that all these officers shall be paid by salaries to be fixed by the Legislature, but in no case to exceed (although they may be much less) the amount of fees they may receive. Then in all the counties of the Commonwealth, save one or two, there would be no inducement whatever to an officer to charge excessive fees upon anybody for the sake of putting them into the public treasury.

Whether you can cut up this mischief, I do not know; it will remain to be seen; but I think that the section as we have it, now with a slight amendment, to which I shall call the attention of the Convention, will answer every purpose. The section as it now reads is:

"All county officers shall be paid by salary, to be prescribed by law, and all fees attached to any county office shall be received by the proper officer for and on account of the State or county, as may be directed by law."

There I would add these words:

"The annual salary of any officer to whose office fees are attached shall not exceed the aggregate yearly amount of fees collected by him."

A gentleman near me says "for officers and clerks." I say no; let the salary be fixed at such a rate as will enable the business to be done; and if the officer has to employ clerks, let him pay them out of his salary. I would not vote in any case that an officer should make himself an ornamental officer and employ half a dozen clerks and have them all paid, he working none. That is not my plan. I think the officer should pay his clerk-hire out of his own pocket, and let the Legislature, upon a knowledge of the whole facts, fix the amount of his salary suffi-

ciently high to enable him to supply himself with clerks at his own expense or do the work himself, at his own option.

I think then, if I have an opportunity when this section is up, I will propose the amendment to which I have alluded, to wit: That the annual salary of any officer to whose office fees are attached shall not exceed the aggregate yearly amount of fees collected by him.

Mr. KAINE. This is a very important matter, and I hope the amendment offered by the gentleman from Montgomery will prevail. The suggestions made by the gentleman from Chester who has just taken his seat will be found in practice to be utterly impracticable. They would establish such a system of lobbying as never before prevailed in this State. Here is a prothonotary, a clerk of the orphans' court, a register of wills, a sheriff and other officers in every county, several hundred, nay thousand officers in the State, whose salaries are to be fixed by the Legislature. Although it may work very well in the county of Allegheny, where, I believe it has prevailed for a year or two, yet even there I am told by a distinguished delegate from Pittsburg the provisions of the act of Assembly have been evaded; that officers there have slipped to Harrisburg and got acts passed giving them perquisites besides their salaries. I am perfectly willing that this system shall prevail in regard to counties containing one hundred and fifty thousand inhabitants and upwards, but let us leave the smaller counties alone; let the smaller counties be as they are, and as they have been since the establishment of the government. It will be utterly impossible to carry this thing into effect.

Besides, it will not secure us the same kind of attention in our officers that we have now. You give a prothonotary, a register or a recorder a salary, and he cares not whether he attends to his business or not; you may find him in his office an hour or two every day and not more; when in fact and in truth these officers should be in their office all the time during the day. We want something to secure attendance; we want something to secure efficiency; and we want to prevent any lobbying in the Legislature about fixing and re-fixing those salaries. How is it to be done? The fees this year are so much; three years hence they may be much more. You will be constantly wanting legislation in the various counties, now one and now another. The

only way, in my opinion, is to leave well enough alone. Let the fees remain as they have been heretofore, except in large counties containing one hundred and fifty thousand people or more.

The PRESIDENT. The question is on the motion of the delegate from Montgomery (Mr. Hunsicker.)

The motion was agreed to and the Convention accordingly resolved itself into committee of the whole, Mr. J. M. Wetherill in the Chair.

The CHAIRMAN. The committee of the whole have had referred to them article fourteen with instructions to strike out section five and insert in lieu thereof the following:

"The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive into the treasury of the county or State, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants all county officers shall be paid by salary, and the salary of such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him." That amendment will be made.

The committee rose, and the President having resumed the chair, the Chairman (Mr. J. M. Wetherill) reported that the committee of the whole had made the amendment referred to them.

The PRESIDENT. The question recurs on the passage of the article.

The article was passed.

RECONSIDERATION OF JUDICIARY ARTICLE.

The PRESIDENT. There is no business before the Chair.

Mr. MACVEAGH. There is a motion pending, I understand, to reconsider the article on the judiciary.

The PRESIDENT. There is such a motion pending.

Mr. JOSEPH BAILY. I was requested by a number of gentlemen who left here on Friday not to call up that motion until to-morrow. They are now absent, and I hope it will not be called up at present.

Mr. MACVEAGH. All right; I withdraw the suggestion.

SUBMISSION OF THE CONSTITUTION.

Mr. S. A. PURVIANCE. I desire now to renew the motion I made a few moments

ago. I move to take from the table the resolution I offered on the thirteenth instant in reference to the submission of the Constitution, for the purpose of having it read and considered, if the Convention so chooses, or if not that it may be referred to the committee which is considering the ordinance of submission.

Mr. D. W. PATTERSON. I desire to make a report from a standing committee at this time.

Mr. MACVEAGH. I suggest to the gentleman to allow the delegate from Allegheny to make his motion that his proposition be referred to the committee.

Mr. D. W. PATTERSON. Very well.

The PRESIDENT. The question is on proceeding to the consideration of the resolution.

The motion was agreed to, and the Convention proceeded to consider the following resolution, submitted by Mr. S. A. Purviance on the thirteenth of October:

Resolved, That the amended Constitution shall be submitted to a vote of the people in the following manner: To be voted upon by tickets labelled on the outside, "Constitution," and on the inside, "for article No. —" or "against article No. —:" and if the voter is opposed to any one or more sections of said article, to add upon the face of the ticket the words with the exception of section No. —." If a majority of the votes are in favor of the article without exception, it shall be carried as a whole, but if a majority of the votes are in favor of the article, but opposed to the section or sections named, then the article shall be considered carried with the section or sections voted against omitted.

The articles shall be numbered in the following order, and voted upon as such by separate tickets for each number:

No. 1. Article on the Executive.

No. 2. Article on Legislation.

No. 3. Article on the Legislature.

No. 4. Article on the Judiciary.

No. 5. Article on Suffrage, Elections and Representation.

No. 6. Article on Finance and Taxation.

No. 7. Article on Railroads and Canals.

No. 8. Article on Private Corporations.

No. 9. Article on Bill of Rights.

On Impeachment and Removal from Office.

On County, Township and Borough Officers.

On Oaths of Office.

On Education.

On Cities and City Charters.

On New Counties.

On Militia, and

On Future Amendments.

Mr. S. A. PURVIANCE. I move that the resolution be referred to the Committee on Revision.

The motion was agreed to.

THE SCHEDULE.

Mr. D. W. PATTERSON. I ask leave to make a report at this time.

Leave was granted.

Mr. D. W. PATTERSON. The Committee on Schedule, to whom was recommitted the article on schedule, beg leave to report the same back with amendments.

The PRESIDENT. The amendments will be read.

Mr. D. W. PATTERSON. I suppose it will be read as a whole.

Mr. MACVEAGH. The pages are distributing copies of it, and it certainly is not necessary to proceed with the reading when every gentleman has a printed copy on his table.

The PRESIDENT. The Clerk will read the article.

Mr. MACVEAGH. I move that the reading be dispensed with.

The motion was agreed to.

Mr. MACVEAGH. I now move that we go into committee of the whole for the purpose of considering this report.

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

The CHAIRMAN. The committee of the whole have had referred to them the article on the schedule. The first section will be read.

The CLERK read as follows:

SECTION 1. This Constitution, or such article or articles and sections thereof as shall receive a majority of the votes polled at the election appointed for the adoption or rejection thereof, shall take effect and go into operation immediately upon the proclamation of the Governor declaring the same to have received such majority of the qualified electors of the Commonwealth.

Mr. HAY. It seems to me that there should be two or three words inserted in the fourth line, I move to insert after the word "received" the words "the votes of."

Mr. SIMPSON. Those words are unnecessary, because the matter is covered in the second line, where the language is

"shall receive a majority of the votes polled," and then in the fourth line the words are "such majority." What majority? Of the votes polled, and it is not necessary to insert those words in the fourth line.

Mr. HAY. I think this amendment is clearly necessary. The majority spoken of here is not with reference to the second line, but is a "majority of the qualified electors." It does not receive a majority of the electors, but a majority of the votes of the electors. Clearly the amendment ought to be inserted.

Mr. NEWLIN. I desire to ask the chairman of the Committee on Revision whether it is intended that this Constitution must receive a majority of the votes of all the electors, or only a majority of those cast, because the language is such that it will bear either construction.

Mr. D. W. PATTERSON. The language in the second line is: "A majority of the votes polled at the election appointed for the adoption or rejection thereof," and then follows the provision declaring that it shall go into operation immediately on the proclamation of the Governor declaring the same to have received such majority of the qualified electors;" that is, a majority of the votes polled. It does not require any amendment.

Mr. MACVEAGH. I submit to the gentleman from Allegheny that his point will be better reached by moving to strike out after the word "majority" the words "of the qualified electors of the Commonwealth."

Mr. HAY. I accept the suggestion of the gentleman from Dauphin.

The CHAIRMAN. The question is on the amendment as modified, to strike out the words "of the qualified electors of the Commonwealth."

The amendment was agreed to.

Mr. BIDDLE. I move to strike out the third and fourth sections.

The CHAIRMAN. We are acting on the article by sections. Those sections have not yet been reached.

Mr. BUCKALEW. On the sixteenth of July we adopted a resolution that the amended Constitution should be submitted to a vote of the people at such convenient time as would enable us to put it into force by the first day of January in case of its acceptance by the people. This section negatives that resolution, and if it be adopted finally in the schedule, it will prevent the Convention from

putting its amendments in force until some time next year.

Mr. D. W. PATTERSON. Allow me to suggest to the gentleman that it is put in such a way as not to conflict with any time that may be set. The language is, "at the election appointed for the adoption or rejection thereof;" and the Committee on Schedule supposed that that would be fixed in the ordinance providing for the election.

Mr. BUCKALEW. I am not speaking of the time of the election, but of that clause which says that the Constitution shall go into effect upon the issuing of the Governor's proclamation.

Mr. D. W. PATTERSON. The act of Assembly requires that.

Mr. BUCKALEW. It will be for the Convention hereafter to determine whether it shall re-assemble after the election shall be held, and receive the returns and announce the result of the vote of the people upon the Constitution itself or not. Such a proceeding is inconsistent with this section, which provides that the Constitution shall only go into effect after the Governor shall issue a proclamation some time next winter, after the returns which have been presented to the Secretary of the Commonwealth shall have been sent to the Speaker of the Senate, to be by him taken to a joint convention of the two Houses and opened and announced under one of the existing laws of the Commonwealth, as in the case of an election for Governor. I do not rise to move any amendment to this section, but to give notice that if the Convention, before we are done with this schedule, shall determine to re-assemble, and receive the returns of the election itself and announce the result to the people, it will then be necessary to amend this section at some subsequent period.

Mr. WOODWARD. I desire to say that in my judgment this section is faulty in that it makes the operation of the Constitution depend upon the time when the Governor shall issue his proclamation. In the Convention of 1837 we provided expressly that the new Constitution should go into operation on the first day of January, 1839—a fixed date at which the new law should take effect. It seems to me that that ought to be the case with this new law which we are now making. The Governor may delay issuing his proclamation; he may refuse to issue his proclamation; there may be in one part of the State no knowledge that such a proclama-

tion has been issued. It makes the adoption of our fundamental law turn upon a fact which is itself somewhat uncertain. To be sure, our mail communications are better than they were thirty-five years ago; but what is the objection to fixing a day on which this new Constitution shall take effect? I should like to hear some gentleman on that point. I think we had better fix a day; I do not care whether it is the first day of January or the first day of May, or on what day it is; but I want a date fixed at which the new law shall take effect, so that everybody may know on that day what is the Constitution of Pennsylvania.

Mr. SIMPSON. I move to strike out all after the word "operation" in the third line, and insert, "on the first day of January, 1874," so that the new Constitution shall take effect and go into operation on the first day of January, 1874.

Mr. D. W. PATTERSON. Mr. Chairman: The Committee on Schedule unanimously supposed that that time would be fixed at the head of the ordinance which would be submitted by one committee, if not two, providing for a vote of the people at an election on the Constitution, particularly if this Convention decide to submit the Constitution to a vote at a special election. I may be permitted to say here that I myself am opposed to a special election; but it seems to be the sense of the Convention to fix a special election. Now, when the ordinance shall be submitted saying that an election shall be held at a certain time, then will be the proper place to fix the day and the month when the Constitution shall take effect, and all about it. This does not conflict with any day that may be fixed in the ordinance for the election appointed for the submission of the Constitution. I think we had better leave it as it is, so that when the ordinance comes up the time can be fixed.

Mr. MACVEAGH. I simply desire to call the attention of members of the Convention to the sixth section of the act of Assembly upon this subject in order that they may have it distinctly before them. It seems to have been carefully drawn, and it provides that: "The election to decide for or against the adoption of the new Constitution shall be conducted as the general elections of this Commonwealth are now by law conducted; and it shall be the duty of the return judges of the respective counties, first having ascertained the number of votes given for

or against the new Constitution, to make out duplicate returns thereof, expressed in words at length, one of which returns so made shall be filed in the office of the prothonotary of the proper county, and the other sealed and directed to the Secretary of the Commonwealth; which said return shall be opened, counted and published as the returns for Governor are now by law counted and published; and when the number of votes given for or against the new or revised Constitution shall have been summed up or ascertained and the duplicate certificates thereof delivered to the proper officers, the Governor shall declare by proclamation the result of the election; and if a majority of the votes polled shall be for the new or revised Constitution, such new or revised Constitution shall be thenceforth the Constitution of this Commonwealth."

It seemed to me that this was in perfect harmony with that, and that we can provide undoubtedly in the schedule for the submissions, and meet and count ourselves the votes and direct the Governor when this proclamation shall be issued.

Mr. BUCKALEW. I desire to suggest to the gentleman that that particular provision was the one which the two Houses of the Legislature repealed by over a two-thirds vote last winter, but by some accident the repealing law was not sent to the Governor and formally signed. What is contemplated? What the committee have been considering as to the ordinance in regard to submission is that these returns shall be made just as that statute provides, to the Secretary of the Commonwealth; that that proceeding shall be gone through and a record made on the Journals of the two Houses at some time or other, but that the return judges in each county shall make out a triplicate return of the county vote and transmit it to the President of the Convention and that he is to open it and announce the result.

Mr. MACVEAGH. That I understand, and it is in entire harmony with that view that I brought this section before the Convention.

Mr. BUCKALEW. I only submit that we had not better in this section tie ourselves down to one mode of announcement.

Mr. WOODWARD. Mr. Chairman: There is no law, not even the poorest little act of Assembly, which is made to depend for its operation on the proclamation of the Governor. There is no such thing in Pennsylvania as an Executive procla-

mation putting a law into operation. The proclamation of the Governor announcing the returns of the election is well enough; but the time when this fundamental law shall take effect cannot be made to depend upon a proclamation of the Governor without a violation of all our usages.

I am in favor, therefore, of the motion of the gentleman from Philadelphia to fix a date.

Mr. BIDDLE. Mr. Chairman: I rise simply to call attention to the schedule, to the amendments of 1838, section two, to be found on page sixty-eight of Smull's Legislative Manual, and gentlemen will find there that the course pointed out by the amendment of the delegate from Philadelphia (Mr. Simpsou) seems to have been the view taken at that time of the alterations and amendments to the then existing Constitution. That section of the schedule of 1838 reads thus: "The alterations and amendments to the said Constitution shall take effect on the first day of January, 1839;" but my recollection is that by a decision of the Supreme Court, the Constitution for some purposes was held to have taken effect before that date. I feel quite sure of that; I cannot now recollect the case, but some gentlemen near me may, perhaps, remember it. I think it was on a question in regard to the judges' terms. I think it would be well if we mean it, and I suppose we do mean it, to say that the new Constitution shall take effect for all purposes from a given day, so as to leave nothing in doubt.

I recollect that there was a very painful controversy—I think it was in regard to the term of some judge—in which an apparent inconsistency was made to appear between the language of the schedule then adopted and the decision of the Supreme Court. I feel quite confident that for some purposes the Constitution was held to have gone into effect some time in December, and for other purposes on the first of January. I think it would be wise for us if we mean it, as I suppose we do, to make it go into effect for all purposes at a fixed date.

Mr. BOYD. I understand, Mr. Chairman, that the matter which is immediately before us is the amendment proposed by the gentleman from Philadelphia, (Mr. Simpson,) and that is that this new Constitution shall take effect on the first day of January next. Now, I merely rise to make a suggestion in regard to

putting its amendments in force until some time next year.

Mr. D. W. PATTERSON. Allow me to suggest to the gentleman that it is put in such a way as not to conflict with any time that may be set. The language is, "at the election appointed for the adoption or rejection thereof;" and the Committee on Schedule supposed that that would be fixed in the ordinance providing for the election.

Mr. BUCKALEW. I am not speaking of the time of the election, but of that clause which says that the Constitution shall go into effect upon the issuing of the Governor's proclamation.

Mr. D. W. PATTERSON. The act of Assembly requires that.

Mr. BUCKALEW. It will be for the Convention hereafter to determine whether it shall re-assemble after the election shall be held, and receive the returns and announce the result of the vote of the people upon the Constitution itself or not. Such a proceeding is inconsistent with this section, which provides that the Constitution shall only go into effect after the Governor shall issue a proclamation some time next winter, after the returns which have been presented to the Secretary of the Commonwealth shall have been sent to the Speaker of the Senate, to be by him taken to a joint convention of the two Houses and opened and announced under one of the existing laws of the Commonwealth, as in the case of an election for Governor. I do not rise to move any amendment to this section, but to give notice that if the Convention, before we are done with this schedule, shall determine to re-assemble, and receive the returns of the election itself and announce the result to the people, it will then be necessary to amend this section at some subsequent period.

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tion has been issued. It makes the adoption of our fundamental law turn upon a fact which is itself somewhat uncertain. To be sure, our mail communications are better than they were thirty-five years ago; but what is the objection to fixing a day on which this new Constitution shall take effect? I should like to hear some gentleman on that point. I think we had better fix a day; I do not care whether it is the first day of January or the first day of May, or on what day it is; but I want a date fixed at which the new law shall take effect, so that everybody may know on that day what is the Constitution of Pennsylvania.

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I recollect that there was a very painful controversy—I think it was in regard to the term of some judge—in which an apparent inconsistency was made to appear between the language of the schedule then adopted and the decision of the Supreme Court. I feel quite confident that for some purposes the Constitution was held to have gone into effect some time in December, and for other purposes on the first of January. I think it would be wise for us if we mean it, as I suppose we do, to make it go into effect for all purposes at a fixed date.

Mr. BOYD. I understand, Mr. Chairman, that the matter which is immediately before us is the amendment proposed by the gentleman from Philadelphia, (Mr. Simpson,) and that is that this new Constitution shall take effect on the first day of January next. Now, I merely rise to make a suggestion in regard to

that. Suppose that the election on the Constitution is held in December, as that seems to be the time fixed in the minds of members of this body. Suppose there should be some irregularity in the election, and it should be necessary to investigate the conduct of the election in some of the counties. Suppose an allegation of fraud should be made as to the conduct of the election in some particular county. It will take some time to investigate that; as a matter of course, and if it should turn out that the investigation could not be made by the first of January, 1874—for it will be observed that the time for making any investigation would be exceedingly short—then what would be the effect of our fixing the first day of January, 1874, for the Constitution to go into operation? If it be said that it shall go into effect without regard to the investigation of any irregular election, then of course any charge of a fraudulent election could not be investigated. It seems to me that it will lead to embarrassment and difficulty if a time is fixed so soon for the election. You have either got to take it for granted that the election is all right and preclude the possibility of any investigation into it and adopt the result anyhow, or if you go into an investigation the time will not be sufficient to complete it.

It seems to me, therefore, that if gentlemen will consider they will find that December will not be the proper time for holding a special election for this purpose. One reason is that it will be impossible to get at anything like a full vote during that month. The proper time for submitting this Constitution to the people, in my opinion, will be at some general election; say the spring election. Then the people's minds are drawn to the subject of an election, and they will turn out for their spring election, and then they can vote upon this Constitution free from the usual political excitement that attends the fall election. If it shall be voted upon at the spring election, we shall, of course, ensure a larger poll than at a special election. And I may here say that if it is submitted in December there will not be a third of the voters out to vote upon it. That is an inclement season of the year, and there will be no particular occasion for the people to turn out, no excitement to arouse them, and it will go by default one way or the other. Now, I suggest whether it would not be better to submit this Constitution in

March, and then have it go into effect some time during the next summer or early fall. What difference does it make whether it goes into effect on the first of January or some time during the current year? I think it will be wise for us to consider that question and not to adopt so short a period as the time designated by the proposition of the gentleman from Philadelphia.

Mr. D. W. PATTERSON. Mr. Chairman: I would respectfully suggest to the Convention that we cannot act on this schedule intelligently and fix it as we desire, until we settle the time for submitting the new Constitution to the people. Then, after that is fixed by a vote of this Convention, we can go on with the schedule intelligently and adapt it to that fact. I make the motion that the committee do now rise and ask leave to sit again, and then I shall offer a resolution.

The CHAIRMAN. There is an amendment pending of the gentleman from Philadelphia.

Mr. D. W. PATTERSON. We can rise at any time. I beg leave to read the resolution which I shall offer if the committee rises:

Resolved, That the new Constitution be submitted to a vote of the people for rejection or adoption at the general election in 1874.

Of course the Convention will act as the minds of the members think; but that should be first fixed, and therefore if it is in order, (and I respectfully submit that it is,) I move that the committee now rise and ask leave to sit again, and then I will offer this resolution.

The CHAIRMAN. The Chair would suggest to the gentleman from the city that for the purpose of relieving any difficulty he withhold his motion, and then the motion of the gentleman from Lancaster can be made.

Mr. SIMPSON. I have no objection.

Mr. D. W. PATTERSON. Now I move that the committee rise.

Mr. HARRY WHITE. I hope the delegate from Lancaster will withdraw that motion. This is a separate, independent proposition; let it stand by itself. In the first section of the article on schedule we only desire to enunciate a general principle. I am not very particular how this is done; I do not regard it as a matter of very great substance. I shall vote, as far as I am concerned, to retain the section as it is; but I am opposed to making the

adoption of this section depend upon the resolution offered by the delegate from Lancaster. I do not think they are connected at all.

Mr. D. W. PATTERSON. I insist on my motion that the committee rise, report progress, and ask leave to sit again.

The motion was not agreed to.

Mr. SIMPSON. I now renew my amendment in this form: Strike out all after the word "operation" in the third line and insert "on the first day of January, 1874, for all purposes not otherwise provided in said Constitution."

Mr. MINOR. I do not know how we can fix the time until we know whether we ourselves are to meet again, and if so, when we are to meet again. I do not see how we can do it at this time. I shall be obliged at present to vote against the time now named or any other. We can fix it hereafter when we know better how we stand.

Mr. LILLY. I suggest that the committee pass over this first section informally, and go on with the rest of the schedule. ["No!" "No!"]

The CHAIRMAN. The question is on the amendment of the delegate from the city (Mr. Simpson.)

The amendment was agreed to.

The CHAIRMAN. The question now is on the section as amended. It will be read.

The CLERK read as follows:

SECTION 1. This Constitution or such article or articles and sections thereof as shall receive a majority of the votes polled at the election appointed for the adoption or rejection thereof, shall take effect and go into operation on the first day of January, 1874, for all purposes not otherwise provided in said Constitution.

The section as amended was adopted.

The CLERK read the next section as follows:

SECTION 2. All laws in force in this Commonwealth at the time of the adoption of this Constitution, or any part thereof not inconsistent therewith, and all rights, actions, prosecutions and contracts shall continue and remain in force and effect until altered or repealed by the General Assembly.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 3. That all fines, taxes, penalties and forfeitures, due and owing to the Commonwealth under the present Constitution and laws, shall inure to the

said Commonwealth under this Constitution.

Mr. BIDDLE. Mr. Chairman: I can see no necessity for this section and the next. I am obliged to consider them both together, because if the House agree with me in striking out the third, I presume they will strike out the fourth. We are not by the adoption of this Constitution annihilating the Commonwealth; we are not in a state of revolution. No man here dreams of such a thing. And yet these two sections seem to be based on the notion that we are in a state of interregnum, a state of revolutionary existence in the period between the submission of this amended Constitution to the people and its adoption. Perhaps it was necessary to adopt section two; at least there was a precedent for it, because we find that in the first section of the schedule to the Constitution of 1835 a similar clause was enacted. But no such clauses as these were ever dreamed of before, and unless some gentleman here will point out the necessity for them, I hope we shall not encumber this schedule with them. I cannot believe that any lawyer would suppose that it is necessary to tell us that "recognizances, bonds and obligations entered into before the adoption of the Constitution shall remain binding and valid," or that "fines, taxes, penalties, and forfeitures due and owing to the Commonwealth" under our existing frame of government shall still continue to inure to the Commonwealth. They do so from our existence as a government; and this would imply, as I said in the beginning of my remarks, that we had no government for this intermediate period. I hope, therefore, the third and fourth sections will be voted down.

Mr. D. W. PATTERSON. I merely wish to state that the committee is not tenacious about these two sections, sections three and four. We found them in about a third of the existing Constitutions of States, and as we did not attempt to assume what would be the effect of having nothing of the kind in our article on schedule, we inserted these sections as an act of safety, which led one member of this Convention to remark, with reference to the committee, that they were a committee of safety.

Mr. REYNOLDS. That was the expression.

Mr. D. W. PATTERSON. We did it as a matter of safety. If the Convention is perfectly clear as to what should be con-

tained in our Constitution, so that we would be perfectly safe without it when it has been inserted in about one-third of the existing State Constitutions in the United States, I am perfectly willing, but I do not know what the effects will be.

Mr. CORBETT. I think there is no doubt that these sections are unnecessary, and they should be stricken out.

The CHAIRMAN. The question is on the third section.

The section was rejected.

The Chairman. The fourth section will be read.

The CLERK read as follows:

SECTION 4. Recognizances, bonds, obligations and all other instruments entered into or executed before the adoption of this Constitution to the Commonwealth of Pennsylvania, to any State or county officer or public body, shall remain binding and valid, and rights and liabilities upon the same shall continue.

The section was rejected.

The CHAIRMAN. The fifth section will be read.

The CLERK read as follows:

SECTION 5. The General Assembly which shall convene on the first Tuesday of January, 1877, shall be regarded as the first Assembly under the new Constitution.

Mr. MANN. I offer the following as a substitute for sections three and four:

"The clauses, sections and articles now in force which remain unaltered and not supplied, shall continue in force."

A portion or many portions of the Constitution as we have prepared it may be voted down; and unless something of this kind is adopted there may be a question of what the Constitution of the State is, because we are now proposing to submit an entire Constitution. That is the basis upon which we are acting, and as I understand, it is intended to submit portions of this work separately. They may be voted down, or the parts that we do not submit separately may be voted down, and those that are submitted separately may be adopted, and there may be a question of what is the Constitution of the State.

Mr. BUCKALEW. The gentleman from Potter forgets that we are now to submit not amendments to the present Constitution; we are submitting a new Constitution entirely. The Constitution of 1837 and 1838 was not a parallel case and the rules which applied then will not apply now. This provision was very proper to

annex to the amendments of 1837 and 1838, but it would be wholly inapplicable to the new Constitution, for the Convention will of course provide an ordinance of submission, will provide carefully what, if anything, will take the place of the rejected sections, in case there is a separate submission of particular parts of the new Constitution. There this question will arise. It is improper to insert it here, because we do not propose to adopt amendments to the present Constitution, but an entirely new instrument.

Mr. MACVEACH. I think that it is quite clear this question is premature. The proper place for this is in the ordinance of submission, if it shall be decided, and after it shall be decided, to submit any article separately. I shall therefore vote against it at this stage.

Mr. MANN. I always listen to the gentlemen who have spoken on this substitute with much interest, and always feel like yielding to their opinions. I thought, however, and still think, that the schedule is the proper place for this provision; but if the gentlemen who have spoken think this matter should be somewhere else, I have no objection, so that we have it in. I therefore withdraw my substitute.

The CHAIRMAN. The substitute is withdrawn, and the question recurs on the fifth section.

Mr. WM. H. SMITH. I move to amend by striking out the words "1877" and inserting the words "1875."

MANY DELEGATES. Make it 1874.

Mr. D. W. PATTERSON. I simply wish to say that this is a misprint. It should be 1874.

The CHAIRMAN. There seems to be a misprint. Does the gentleman from Allegheny now insist upon his motion.

Mr. W. H. SMITH. No, sir, I withdraw it.

The CHAIRMAN. The Clerk will be good enough to correct the printed section by changing 1877 to 1874.

Mr. D. N. WHITE. I move to amend the section by adding:

"And shall divide the State into senatorial and representative districts in accordance with the provisions in the article on the Legislature in this Constitution."

Mr. HARRY WHITE. The amendment offered by the delegate from Allegheny, it will be apparent to the Convention, is a pertinent amendment if they will consider for a moment. The idea is to put this

Constitution into operation as soon as possible. We have taken up a great deal of time in indicating the principles on which apportionment shall be made. Of course the Legislature is the body to make the apportionment. Some Legislature must do it. We do not want to postpone this too long, and the effect of the amendment offered by the gentleman from Allegheny is to require that the Legislature which we have designated as the first Legislature under this Constitution shall make the apportionment.

Mr. BUCKALEW. Will the gentleman allow me a single word?

Mr. HARRY WHITE. I will allow an interrogation.

Mr. BUCKALEW. Exactly this provision is in the eighteenth section of the legislative article:

"The first Legislature after the adoption of this amendment shall make this apportionment."

Mr. HARRY WHITE. If that is there, I will withdraw the amendment.

The CHAIRMAN. You cannot withdraw it; you did not offer it.

Mr. HARRY WHITE. I withdraw what I said in regard to the amendment. [Laughter.]

Mr. DODD. Of what use then will this amendment be to this section? If the purpose intended to be accomplished by it has been elsewhere provided for, what is the use of over-loading the schedule.

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

Mr. D. N. WHITE. I withdraw it, if it is already provided for in the legislative article.

The CHAIRMAN. The amendment is withdrawn. The question recurs on the section.

The section was rejected.

The CHAIRMAN. The Clerk will read the sixth section.

The CLERK read it as follows:

SECTION 6. Senators and Representatives under this Constitution shall be elected as follows:

The General Assembly, at its sessions of 1874 and 1875, or either of them, after the adoption of this Constitution, shall divide the State in fifty Senatorial districts as provided in the article on the "Legislature," numbered consecutively, and Senators shall be elected first therein at the general election in 1876, and Senators then shall be elected from even numbered districts to serve for two years, and

from odd numbered districts to serve for four years.

Mr. DARLINGTON. I would like to ask some explanation why this is delayed so long in its going into effect. I had hoped to see the election in 1874 elect all the members of the Legislature of both Houses, and then let them be classified as they should be in the Senate. As far as regards classification, I do not see any reason why the election of the first Legislature under this Constitution should not be the Legislature that shall apportion the State. Why delay it? I hope that some gentleman will move an amendment to that effect.

Mr. SIMPSON. I move to amend, by striking out, in the third line, the words "and 1875 or either of them," and to change the word "sessions" to "session." I desire to say here that I do not desire to change the rest of the section, because there were Senators elected for three years, and if the remainder of the section stand unaltered it will give them an opportunity of filling the term for which they were elected, as we have provided in other parts of this Constitution for all other officers. This amendment will, however, provide for the apportionment of Senators and Representatives at the session of 1874.

Mr. DARLINGTON. I do not see how it is practicable to put this Constitution into operation so far as regards the Senate, without having them all go out at once, no matter whether they have one year to serve or three. Let them all go out and they can be elected in every district, which is far better and easier. Let them all be elected in 1874, the whole fifty, and then let them be divided, so that the odd numbered shall serve for two years and the even numbered four, or the reverse as the case may be. That will be a great deal better.

Mr. HARRY WHITE. This is a matter of some consequence and I do not exactly understand the purport of the amendment of the gentleman from Philadelphia.

Mr. SIMPSON. Its purport is to have the apportionment made by the General Assembly of 1874.

Mr. HARRY WHITE. I would remind the delegate from Philadelphia that the delegate from Allegheny (Mr. D. N. White) some time since offered an amendment looking to the same end, but at the instance of the delegate from Columbia it was withdrawn, the understanding be-

ing that the same thing was provided for in the article on Legislature, so that no provision to that effect will be necessary. I will offer an amendment here.

The CHAIRMAN. The Clerk will be good enough to read it.

The CLERK read as follows:

"In 1876 Senators shall be elected from even numbered districts to serve for two years and from odd numbered districts to serve for four years."

Mr. HARRY WHITE. I move to strike out the section and insert this amendment. It meets the criticism offered by the delegate from Chester and the delegate from Philadelphia. You will observe it is a simple section:

"In 1876 Senators shall be elected from even numbered districts to serve for two years and from odd numbered districts to serve for four years."

At that time this Constitution, as far as the Legislature is concerned, will be entirely at fault, and the amendment I have offered will make it in harmony with the subsequent provisions of this Constitution.

Now, let me call the attention of delegates to section seven. It is there provided that:

"Senators now elected and those whose terms are unexpired, shall continue Senators for the districts in which they may reside, until the end of the term for which they were respectively elected."

Now, what is the effect of it? Senators who were elected in 1871 sit with Senators elected in 1872 and 1873. As the Legislature of 1874 approaches, you observe we have fifty senatorial districts. At the end of the session of 1874 one-third of the Senate will go out, to wit: Those elected in 1871. Consequently at the election of 1874 there will be Senators to elect in twenty-eight districts, and two-thirds of the Senate remaining, twenty-two, will make fifty. In 1875 the terms of Senators who were elected in 1872 will expire, and a new election will be held in their districts, the Senators to serve for one year, and at the session of 1876 Senators who are elected this fall for three years will have served 1874, 1875 and 1876, and their terms will be out. So then you observe by reason of the seventh section, providing that Senators who may reside in districts shall continue until the end of their terms, you, under our new plan, will have Senators during their terms for those districts. Then in the other districts of course a

new election will occur. Thus we shall have an entirely harmonious system.

I hope therefore the amendment I have offered will prevail, and the seventh section will be passed, and the eighth section will be passed, striking out "in all present senatorial districts."

Mr. BUCKALEW. I hope this amendment will not prevail, or any other amendment that postpones the operation of this new Constitution until 1876. If I get the opportunity I shall move to amend by striking out all of this section after the word "Senators," in the fifth line, and then making the remainder of the section read in this manner:

"Senators shall be elected under this Constitution at the general election in 1875, and Senators then shall be elected from even numbered districts to serve for two years, and from odd numbered districts for four years."

That will put the Senate and the House both into election in the year 1875 along with the Governor; and the Governor and Lieutenant Governor and half the Senate and the whole House will commence their terms together at the beginning of 1876, and everything will run smoothly afterward; whereas this amendment and the project of the committee is to postpone the election of the new Legislature under the Constitution until 1876, the year after the Governor's election, and the Legislature and the Governor not be elected together hereafter, as they ought to be.

I do not, however, propose to discuss my amendment, but to suggest what the Convention ought to adopt instead of the proposition of the committee.

The CHAIRMAN. The question now is on the motion made by the gentleman from Indiana.

Mr. D. W. PATTERSON. I should like to explain briefly what the committee designed in making this report. The committee agreed upon it with perfect unanimity, or the quorum that was there. The committee partially changed their views in reference to the manner and time at which the new Constitution should take effect from what they had formerly reported. They did it for various reasons. First, as reported now, the schedule provides for but one exciting election in every four years. They considered that it would be cheaper for the Commonwealth, for the counties, and for the cities of this great State to have a gubernatorial election and presidential election com

together. I have spoken to a number of members on this floor since the report was agreed upon, men of all complexions of politics, and they concur in the view of the committee in that regard.

In the second place, in a moral point of view, it was considered that it would prevent a great deal of demoralization in having the gubernatorial election, as the election will be every four years, to come in the same year with the presidential election.

You will observe, to meet that, in section ten we have extended the term of the present Executive one year, and also from the first Tuesday to the third Tuesday of January, the time the officers of the State now commence their terms according to the article on legislation. We considered that as giving one term under the new Constitution, and, of course, he would be ineligible for another election. Well, to provide for that, we thought we would keep the Legislature as it is until the election of 1876, and then we would provide for the election of fifty Senators in the odd and even districts, those elected in the even numbered districts to serve for two years, and those in the odd numbered to serve four years. We, also, to meet that provide that in the fall of 1876, at the same time with the presidential election, the Governor shall be elected and extend the term of the present Executive for one year for that reason, and provide that the Lieutenant Governor shall then be elected, who will preside in the Senate, consisting of fifty members under the new Constitution.

Accordingly it was deemed by all best to continue the terms for Senators now elected, those elected this fall to go out in 1876, and in 1874, provide that the Senators elected from the even senatorial districts shall be elected for two years, and those elected in 1875, one year, so that all the new elections taking place between this and the fall of 1876 will go for what term they are elected for, and be settled for one and two years respectively. You observe that the sixth line of the sixth section after saying "Senators shall be elected first therein," that is in the new districts, and the article on the Legislature has not anything in regard to odd and even districts, and that was the reason the committee introduced there that the Legislature should in fixing the new districts number them consecutively and that the half, those in the even numbered districts, should be elected in 1876 for two

years, and in the odd numbered districts for four years. That is absolutely necessary in order to put the article on the Legislature into operation.

Whether the Convention retain 1874 or 1875 or not is immaterial; if they require the Legislature of 1874 to number the new districts consecutively, they will probably do it; but we thought as the election would not be until 1876 if this report is adopted, they would have two years to mature their business.

You will observe that we retain the terms of the present Senators as elected, those elected this year to extend to 1876, and then in the elections of 1874 and 1875 there is to be an election wherever there is a vacancy, those chosen in 1874 to be elected for two years and those in 1875 for one year. Hence in the fall of 1876, at the general election, the terms of all the Senators would expire, and the Legislature having enacted a law numbering the new senatorial districts consecutively, and providing that odd and even numbered should be alternately elected, we go in and elect new Senators for two years and four years respectively.

I know it is the wish of many of the delegates on this floor that the new Legislature consisting of two hundred members and fifty Senators shall come into existence sooner, but we cannot do it if we wish to continue the terms of those now elected. And the great question is whether we shall agree to extend the term of the existing Executive one year, so that the four years' election will come with the presidential election or not. I do not think there can be any argument to show that it is of advantage to any one political party, but I think, on the other hand, a great deal can be said in favor of having but one large and exciting election every four years. It will save every man who feels an interest in his country, money, individually; it will save the Commonwealth money; it will save the counties a great deal of cost and expense, and it will save this great community, this Commonwealth, a great deal in point of virtue and morals; because, after all, we must admit that at every exciting elections there is a great deal of demoralization caused thereby. I cannot see that any objection can be made to this arrangement, and if so, I contend that sections six, seven, eight and nine are drawn in conformity with these views, and we ought to carry them out.

And again, Mr. Chairman, I believe that the present House and the present Senate whom we direct to pass laws to put into operation this new machinery, will do it better, will do it with more expedition and more correctness than the new Houses consisting of two hundred members and fifty Senators. For that reason we put it upon the existing Legislature, with its present number to enact laws to put this new machinery into operation.

Now, if I am understood by the Convention, I maintain that the section as it is carries that into effect and will only carry it into effect, and I cannot see any objection to it, provided this Convention are in favor of having the gubernatorial and presidential election at the same time.

Mr. BEEBE. I ask for the reading of the amendment of the gentleman from Indiana.

The CHAIRMAN. The amendment will be read.

The CLERK read as follows:

"In 1876 Senators shall be elected from even numbered districts to serve for two years, and from odd numbered districts to serve for four years."

Mr. D. W. PATTERSON. That is in lieu of section six.

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

Mr. HARRY WHITE. Mr. Chairman—The CHAIRMAN. The gentleman has already spoken on this amendment.

Mr. HARRY WHITE. I merely desire to modify my amendment. The sixth section must be modified. I will withdraw my amendment if the delegate from Lancaster will move to strike out all of the section down to and including the word "and" in the fifth line.

Mr. MACVEAGH. That is provided for I think in the article on the Legislature.

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

Mr. HARRY WHITE. I want to withdraw my amendment if I can get the delegate from Lancaster to understand my proposition.

The CHAIRMAN. The committee cannot be detained until that is done. [Laughter.]

Mr. D. W. PATTERSON. I cannot do that.

The CHAIRMAN. Does the delegate from Indiana withdraw his amendment?

Mr. HARRY WHITE. No, sir.

The CHAIRMAN. Then the question is on the adoption of that amendment.

The amendment was rejected.

The CHAIRMAN. The question recurs on the amendment of the gentleman from the city (Mr. Simpson,) to strike out in the third line of the sixth section, the words, "and 1875 or either of them."

The amendment was agreed to.

Mr. BUCKALEW. Now I suggest that the word "sessions" be changed to "session."

The CHAIRMAN. That correction will be made.

Mr. BUCKALEW. I move to amend, by striking out all of the section down to the word "Senators" in the fifth line; and also striking out in the sixth line, the words "first therein," and inserting "under this Constitution," changing "1876" to "1875," and striking out the semi-colon at the end of the sixth line.

The CHAIRMAN. The section will be read as proposed to be amended.

The CLERK read as follows:

"Senators shall be elected under this Constitution at the general election in 1875, and Senators shall then be elected from even numbered districts to serve for two years, and from odd numbered districts to serve for four years."

Mr. BUCKALEW. A few words will convey to the Convention my views upon this amendment.

The new Senate will be elected with the new Governor at the end of the present gubernatorial term in 1875, if this amendment be adopted, and then elections for Governor and for members of the Legislature will be fixed in odd years forever hereafter, as the Convention upon debate on a former occasion decided that they should be. That was the decision of the Convention after this question was debated. More than that: In this article upon the Legislature it was expressly fixed by the committee on that subject and endorsed by the Convention that the first Legislature should meet in the January succeeding the adoption of our amendments, and every two years thereafter, which necessarily fixed the election in the odd years.

Now, the gentleman from Lancaster says that certain senatorial terms will be cut off if you elect the whole new Senate in 1875. Well, sir, that result would follow no matter what year you adopt; no matter what year you adopt you will cut off two years of the term of one-

third of the Senate, and one year of an additional third of the Senate. That must happen at any time. By taking 1875, however, you will not cut off the term of any present member of the Senate who obtained his election before our new Constitution was before him, before it was published and well understood that we were ordering biennial sessions and had fixed the year 1875.

So that upon every ground this simple and convenient arrangement of commencing the new constitutional Senate by elections in 1875, after members have been chosen for two year terms from the even numbered districts and for four year terms from the odd numbered districts, at the time when the Governor's term expires by limitation under the present Constitution, is an arrangement which the Convention ought to adopt in this schedule. It conforms to what the Convention has done heretofore. It distributes the political power of the people over the different years hereafter in a proper manner; it equalizes it; and in every respect I insist that my amendment should be agreed to.

Mr. MACVEAGH. Mr. Chairman: One of the persuasive arguments to my mind for biennial sessions was to get rid of the necessity of the annual turmoil of elections, and I have believed confidently that this Convention would not insist upon putting these elections in the odd years simply in order to multiply them. We abolished the peculiarity of Pennsylvania that she held an October election, in order to get rid of the necessity of these additional elections. We are to elect State officers at the same time with the Congressmen. The argument made for putting it upon that day was distinctly that we might have but one election, that we might have two years of comparative quiet and rest from this disturbance and this turmoil. It was told us over and over again by the lamented delegate from Centre, (Mr. M'Allister,) and by other gentlemen, that it was our duty to abandon the peculiarity of our October elections, in order to relieve the people of two elections.

Mr. BUCKALEW. In the same year.

Mr. MACVEAGH. Yes, in the same year, and that we thus get the election for Congressmen and the State election together. Now, under this proposition, we do not get rid of that at all. We have our independent election, and the fruit of the biennial system to that extent is entirely

lost, as it seems to me, and I can conceive of no reason whatever—

Mr. HAY. I inquire of the delegate from Dauphin whether we shall not have a general election every year in any event. We provide for the election of an Auditor General for three years, and a State Treasurer for three years.

SEVERAL DELEGATES. No; two years.

Mr. HAY. Their terms will never come together, and we shall be obliged to have a general election every year.

Mr. MACVEAGH. If the terms are three years we certainly shall not be obliged to have a general election every year.

Mr. HAY. There will be a general election—

The CHAIRMAN. The gentleman on the floor cannot be interrupted.

Mr. MACVEAGH. If there is that defect in it, I think it could still be remedied. I do not see the necessity, after we have gotten rid of annual elections for the Legislature, now to secure annual elections at any rate, one year for Congressmen, and the next year for members of the Senate and of the Assembly. It does seem to me that it is in pursuance of the doctrine that the Convention espoused to have but one election of this general character in every two years.

Gentlemen, it is a mistake to multiply these elections and to multiply the exactions upon the citizen for the performance of public duty. We have put many guards around our public men. One of the very best incentives to the breeding of a higher public tone is to lessen the burden upon the citizen and to diminish the number of elections he is called upon to attend. Thoughtful students of your political troubles, in other countries, insist that it is utterly hopeless to expect the average business man of America to attend to the discharge of his public duties while you multiply those duties and keep them at the vast extent to which they now are. It seems to me that it is wise to diminish them and that biennial elections are at least a step in that direction.

Mr. BUCKALEW. I should like to ask the gentleman why he fixed this exact arrangement which I propose, in the fifth section of the legislative article?

Mr. MACVEAGH. The legislative article was fixed before this schedule was considered. I was anxious then, as I am anxious now, that this new Constitution shall go into effect at the earliest possible moment; and I now want to regulate

this schedule so that the Legislature that meets on the first of January shall be a Legislature under this Constitution, not elected under it, but subject to its limitations.

Mr. CURTIN. Mr. Chairman: We have already provided in the Constitution that the State Treasurer shall be elected for two years, the Auditor General for three years, and the Secretary of Internal Affairs for four years, and we provide that hereafter the Governor shall be elected for four years. We have constantly recurring elections of judges of the Supreme Court, and in spite of all that we can effect in this Convention, we shall have a State election almost every year. We put the election in November for the purpose of avoiding the expense in the year of a presidential election, of a State election and an election for President. That was the only reason for it.

To effect the purpose of this schedule you propose to extend the term of the Executive one year. Mr. Chairman, I am in favor, and I trust it will be the policy of the Convention, of not turning any man out of office in Pennsylvania or not shortening the term of any man, but we are not called upon by the people of Pennsylvania to extend the official term of any man. I should have no objection to extending the term of any man as Governor of the State, if any great good could be effected by it; and I will be perfectly frank in saying to this Convention that I was heartily glad that in fixing the election of the Governor of the State hereafter for four years, the election fell one year before the presidential election always, for if there is one thing to be desired in Pennsylvania more than any other, it is that the domestic affairs of this State shall not be controlled by the action of the political parties of the State on a presidential election.

Now, Mr. Chairman, inasmuch as we are to have a State election almost every year, and it is the settled policy of this Convention not to turn any man out of office, not to change the salary of any official, I do not think we should adopt the insane policy of extending the official term of any man, I do not care who that man may be, and least of all should we violate that principle by extending the office of the Executive of this Commonwealth, the highest place of honor in the State, for one year. The right to elect the Executive of this State is a right that the people are jealous of, and they will not

surrender it to the one hundred and thirty-three men of this body.

I did hope that the necessary legislation to carry into effect the provisions of this Constitution would be made by the Legislature which we had provided for under the Constitution. I can conceive of no reason why this rule should apply to the House of Representatives. I can understand very well why it is necessary to postpone the election of Senators, as we elect them for four years, so as not to exclude the gentlemen elected to that body from serving out their full official tenure; but I cannot understand why we should not have the presence of two hundred men on the first day of January, 1875, at Harrisburg, to legislate for the people of this Commonwealth, and to enact the laws that are absolutely necessary to produce the beneficial effects of the reforms we have made in the organic law of the State.

Mr. HARRY WHITE. I do not like the amendment offered by the delegate from Columbia, and I sympathize very much with the remarks made by the delegate from Dauphin as to the impropriety of frequent elections.

Allow me to call the attention of delegates to the exact result of the amendment offered by the delegate from Columbia. This is an exceedingly important question and will affect the vote which is to be cast for or against this Constitution, and hence it requires our careful attention. The delegate from Columbia moves to amend the section, by striking out all that provision after the word "Senators," in the fifth line, and to strike out "1876," in the sixth line, and make it "1875," so that delegates will understand the provision will read:

"Senators shall be elected under this Constitution at the general election of 1875, from even numbered districts for two years, and from odd numbered districts for four years."

The practical effect of the amendment offered by the delegate from Columbia is to make the election of Senators and members of the House of Representatives every odd year. We are compelled by United States law to elect members of Congress in the even years, and of course we are all familiar with the fact that the presidential election always occurs on an even year, so that the practical effect of the amendment offered by the gentleman from Columbia will be to separate for all time, or as long as this Constitution is to

be in force, the election of members of Congress from the State elections or in other words to require elections to be held every year in the different districts of the Commonwealth to excite local interests.

There is another purpose in view. The result of providing for the first election under this Constitution in 1875 will be to allow the Legislature of 1874 to protract its sessions and to continue its existence and hold the session of 1875.

These are the practical consequences of the amendment offered by the gentleman from Columbia. I am entirely opposed to it. One reason is that the practical effect of this will be to turn out of office all the Senators who were elected at the general election of 1873, and send them home to their districts to electioneer actively against the Constitution. I will not pause to remind delegates of the very effective influence which an active Senator, even in one-third of the senatorial districts of this Commonwealth, can bring to bear against the adoption of this Constitution. Whether Democrats or Republicans, it will strike all alike. As a matter of policy, then, I am opposed to it. As a matter of principle I am entirely hostile to it. I voted cheerfully for and I used all my influence to encourage my fellow-delegates here to vote for biennial sessions. I will do so again. One reason for doing so was because of the pernicious and corrupting influences of frequency in elections. Here in the city of Philadelphia and in populous communities all over this Commonwealth there are professional politicians who live on the droppings that fall from the tables of aspirants for local positions such as Senators and Representatives. I would aim a fatal blow at that class of the community, but you never can deprive them of their occupations if you have annual elections for members of Congress and for members of the popular branch of the Legislature and of the Senate.

What I desire is some little modification of the section as it comes to us from the hands of the Committee on Schedule. Let us authorize the first election in the new districts at the general election of 1874. Then we shall have twenty-eight Senators. Then in 1875 we shall elect in other new districts which will be represented by the Senators elected this fall, only eleven. Thus you will have a harmonious system, and everybody that is elected now and serving a term now will

have the full enjoyment of the term for which he has been elected. We shall in the meantime start the new populous branch of the Legislature in 1875, and the new Senate with fifty Senators in 1875, and we shall preserve the terms of Senators now elected; but we cannot have all new Senators elected under the provisions of this Constitution to take their places in the regular election of 1876. So, then, if you adopt the provisions as you find them here reported by the Committee on Schedule, you will have Senators elected in 1874 for two years, in 1875 for one year, all expiring in 1876, and the first new election then will occur in 1876, when those from the even numbered districts will be elected for two years, and those from the odd numbered districts will be elected for four years. Then we shall have it all harmonious, and we can expect the support of the members of the Legislature, Senators and otherwise, in behalf of the adoption of this Constitution; and again we will have the gratification of knowing that we shall be relieved from the necessity of the annual elections one year for members of the Legislature and Senators, and the next year for members of Congress, and occasionally for President.

The delegate from Columbia has said something about the election for Governor in an odd year, in order to have the election to occur for Governor in 1875, that he may take his office in 1876. If you will turn over the page you will find that that is provided for at the general election in 1876, and the term of the present Executive is extended until his successor is elected. What is the practical effect of that? Its practical effect is to have but one election, in the presidential year, for President, and for Governor every four years. That I am in favor of, and for the same reasons that have been so ably and pertinently advanced by the eloquent delegate from Dauphin (Mr. MacVeagh.) I agree with him entirely in his position of extending for one year the term of the Executive. What is the difficulty about that? Turn to the record of the Constitutional Convention of 1838, and there we find that, in order to make their Constitution harmonize with the new regulations that they made, the term of the then Executive of the Commonwealth, to wit: Governor Ritner, was extended for one or two months. Here it is only proposed to extend the term of the Governor for one year, to make him subject to the provisions of this Constitution. The system,

as found here, is harmonious and will work well. The system, as proposed by the delegate from Columbia, is inharmonious, and will excite only hostility to the amendments we are proposing to this Constitution.

Mr. PURMAN. The arrangement in the schedule ought to be such as to preserve the existing terms of the Senators elect, and at the same time to secure the immediate operation of the new Constitution so far as practicable. And under the Constitution we have made, upon examination it will be found that the several officers to be elected, such as Treasurer, Auditor General, the several county officers and the members of Congress, will require an election every year except, say, every ten or eleven years. Hence nothing will be gained either in expenses of the election or in exemption from the excitement and vexation by having the gubernatorial and the presidential election on the same year. A careful consideration of the subject will convince any one that under our new arrangement we cannot avoid elections every year except as I have already stated.

This is a sufficient answer to the argument of the gentleman from Indiana (Mr. Harry White) and others.

Now, sir, there are several good and valuable reasons why the election of the Governor should be separated from the federal election. Pennsylvania is a great and growing State, with such diversified interests and wants that they should never be paralyzed or clogged with the national politics. This doctrine of the State electing its officers at a time when there can be no federal influence, is in accord with the spirit and genius of our institutions.

If you leave the people free from the excitement and pressure of federal politics, you will get their calm, deliberate and wise judgment in the selection of a Governor.

And moreover, sir, there is another objection to the amendment which will prove fatal to our whole work. It proposes to extend the term of the existing Governor, and thereby requires every voter who votes for the Constitution to indirectly vote for the election of the existing Governor for another term of one year. However little objection any of us might have to the continuance of the present Governor for one year more than he was elected for, it is very unjust to our work, to the people and to ourselves, to subject them

to such a trial and to such a strait. This proposition to extend the term of the existing Governor for one year will prove the last feather which will break the camel's back. It is my hope and my wish that we may send out our work to be judged of by itself as a measure of reform, of relief to the people from the oppressions of those who have misused the powers of the government. All the honest farmers and mechanics want, is to see it and read it to adopt it, or at least parts of it. My confidence in the people is unshaken.

Now, sir, as we are about to bring our work to a close, let us see that our last work and our last hours be guided by wisdom, prudence and discretion. Let us fix the first day of January next as the day on which the new Constitution shall go into effect, and in the ordinance of submission provide for a separate vote on certain articles, such as the article on the Legislature, the judiciary, the railroad article, and perhaps the article on corporations, and then also provide for a vote for the Constitution as a whole, and we will see our labors approved by the people in so much as it ought to be. If we give the people an opportunity to express themselves in this manner, there will be many more votes given for the Constitution as an *entirety* than there otherwise would be. Having, as we have, devoted nearly one whole year to the revision and amendment of the Constitution of the State, and so fully examined the principles upon which our institutions are founded, and out of these principles having formed a Constitution, such as is worthy of being adopted by them, do not let us load it down with idle, frivolous and mischievous terms and conditions.

Mr. SIMPSON. I shall vote against the amendment of the gentleman from Columbia, for the reason that I assigned when the question was before the Convention with regard to biennial sessions of the Legislature. I expressed the hope then that the day was coming when we would not have as many elections as we have been having in the years that are past, and the Convention in its wisdom saw proper to adopt biennial elections for members of the Legislature. I trust that this is the entering wedge that will bring about the necessary result, and that instead of having elections every year the time will soon come when we shall have them every two years and not oftener. If the amendment of the gentleman from Columbia is adopted, it will of necessity

compel an election every year, because we must have the election for Congressmen, and we must have the election for President under federal law. Those are things over which we have no control. Then we shall have the election for Auditor General and for county officers at the intermediate elections; but if it works well to have elections biennially for members of the Legislature, for Governor, Lieutenant Governor and other officers, the people may soon come to the conclusion that they will abolish the intermediate elections and have them all every second year.

For these reasons I shall vote against this amendment, because it will be an obstruction in the way of that much needed and much hoped for reform.

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

On the question of agreeing to the amendment proposed by Mr. Buckalew, a division was called for, which resulted thirty-six in the affirmative, and thirty-eight in the negative. So the amendment was rejected.

Mr. DARLINGTON. I now move in place of the section to insert the following substitute:

"The General Assembly of 1874 shall divide the State into fifty senatorial districts as provided in the article on the Legislature, numbered consecutively, and Senators shall be elected first therein at the general election of 1874 from even numbered districts to serve two years, and from odd numbered districts to serve for four years."

It is very obvious now that we have either to elect the first Legislature under this Constitution in 1874 or 1875 or 1876, probably. Now, sir, what are the objections to electing them in 1874? Undoubtedly those who are in favor of putting the Constitution into operation at once, I presume are in favor of having an election of the Legislature under it at the first practicable moment. What is the objection of it? That we cannot elect them the same year that we elect the Governor and Lieutenant Governor. Is that a serious objection? I do not see that these elections need necessarily come at the same time. Why may not the Governor be elected in 1875 at the expiration of the present Governor's term and the Lieutenant Governor with him, and the Legislature be elected in 1874, and again in 1876 and 1878, and so on? If this be ob-

jectionable, then either let the present Governor's term expire at the end of two years, or if that should be thought unjust and you want him to come in at the same time that the members of the Legislature are elected, extend his term for another year, until 1876; but at all events, select the members and Senators in 1874. I want to see them under the new Constitution in their places at the commencement of the year 1875. Whether the Governor shall then be in office for a year, or whether his office shall be extended for another year, I care not.

Since this Convention has decided upon biennial sessions of the Legislature and biennial elections so far as regards those officers, and since the body, I am entitled to presume, means to abide by that, although it did not meet my approbation, I must assume that we are to have biennial elections and biennial sessions. We never can do away with annual elections. Nobody ever supposed we could. All our county officers are to be elected at different times as death interferes; and of course in different counties they are elected at different times, so that there will be elections for county officers in some of the counties, probably in all of them, every year; but that need not interfere with this regulation. There is nothing that I see in the way of putting this thing in operation in 1874 as well as in 1875 or 1876. This Convention has already said that it would not adopt the proposition for 1875. It is therefore 1874 or 1876, and I prefer the first; and that is my amendment.

The CHAIRMAN. The question is on the amendment moved by the gentleman from Chester.

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

Mr. MACVEAGH. Now I should like the gentleman to amend his substitute by providing for not repeating the first part of it, which is already in the article on the Legislature.

Mr. DARLINGTON. All I care about is the principle. Let the Committee on Revision and Adjustment put the phraseology right.

Mr. MACVEAGH. Very well.

The CHAIRMAN. The question recurs on section six, as amended.

Mr. COCHRAN. I really do not precisely understand the practical effect of this section as it is now amended, and I would be glad if some gentleman would explain it.

Mr. HARRY WHITE. The delegate from York, I think, has not taken the trouble of reading all the sections that relate to this matter, and for his benefit I wish to make an observation. This section, as we have amended it, provides that the Legislature at the session of 1874 shall divide the State into fifty senatorial districts and that at the general election of 1874 Senators shall be elected for four years from even numbered districts and for two years from odd numbered districts. I do not care very much about it as far as I am concerned; but the practical effect of it will be to turn out of office or to end the term of twenty-two Senators who are now in the Senate. ["No." "No."] I beg pardon of gentlemen, but I say the practical effect will be to cut off their term.

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

The section was agreed to, there being on a division, ayes forty, noes thirty-one.

The next section was read as follows:

SECTION 7. Senators now elected and those whose terms are unexpired, shall continue Senators for the districts in which they may reside, until the end of the term for which they were respectively entitled.

Mr. DARLINGTON. Sections seven, eight and nine, which provide for continuing the present Senators, will of course all have to be negatived.

Mr. BUCKALEW. Is there an amendment pending?

The CHAIRMAN. No, sir.

Mr. BUCKALEW. Then I move to amend this section to make it correspond to the one just adopted. I move to strike out in the first line the words "now elected and those," to strike out the word "are" in the same line and insert "shall be," to insert after the word "unexpired" the words "in 1874," and in the second line near the end to strike out the words "end of the term for which," in the third line to strike out the words "they were respectively elected," and at the end to add "the first day of December of that year," so as to read:

"Senators whose term shall be unexpired in 1874 shall continue Senators for the districts in which they may reside until the first day of December of that year."

I simply offer this amendment to make this section follow the previous section. As the gentleman from Chester has all the Senators elected in 1874, their term

will begin on the first day of December, 1874; and this section, if amended as I propose now, will correspond as to the former terms. What I have to observe additionally is that this amendment seems necessary to make our work consistent. If members of the Convention think proper to alter this arrangement they can do so on second reading.

Mr. BROOMALL. I hope this amendment will not be adopted. I see nothing in the provision of the gentleman from Chester just adopted that requires us to turn out of office these Senators. That amendment requires Senators to be elected; and of course if it is construed with this section, it will be such Senators as are necessary. ["No." "No."] Letting this section stand will suffer the Senators who are in office to serve their unexpired terms for the districts in which they reside. I should be entirely unwilling to cut off the terms of Senators.

The CHAIRMAN. The question is on the adoption of the amendment moved by the gentleman from Columbia.

The amendment was agreed to, there being on a division, ayes, forty; noes, thirty.

The CHAIRMAN. The question now is on section seven, as amended.

The section was adopted.

The next section was read as follows:

SECTION 8. At the general elections for 1874 and 1875 Senators shall be elected in all present senatorial districts, where there shall then be a vacancy. Those elected in 1874 shall serve for two years, and those elected in 1875 shall serve for one year.

Mr. HAY. This section seems now to be entirely unnecessary after the amendment of the delegate from Chester, and it ought to be voted down.

The CHAIRMAN. The question is on the adoption of the section.

The section was rejected.

The next section was read as follows:

SECTION 9. Representatives shall be elected at the general elections for the years 1874 and 1875, to serve for one year respectively, and representatives shall be elected at the general election in 1876 under the provisions of this Constitution, to serve for two years.

Mr. MACVEAGH. That seems to me entirely unnecessary; it is provided for in the article on the Legislature that they shall be elected at the first general election after the adoption of the Constitution and every two years thereafter.

Messrs. DARLINGTON, SIMPSON and others. We will vote it down.

The section was rejected.

The next section was read as follows:

SECTION 10. The first election of Governor under this Constitution, to succeed the present Executive, shall be at the general election in the year 1876, and the term of the present Executive is hereby extended to the third Tuesday of January, 1877, and until his successor is duly elected and qualified.

Mr. MACVEAGH. I should like to hear some explanation from the committee about that.

Mr. S. A. PURVIANCE. I rise to move an amendment to the section. I move in the second line to change the word "six" to "five," and to strike out the words "and the term of the present Executive is hereby extended to the third Tuesday of January, 1877, and until his successor is duly elected and qualified," so as to make the section read simply:

"The first election of Governor under this Constitution to succeed the present Executive shall be at the general election in the year 1875."

Mr. HARRY WHITE. Entertaining the views that I have already expressed, I should be inconsistent if I did not vote against the amendment now moved. The practical effect of the amendment offered is to make the Governor's election always occur in an odd year, always occur in the year immediately preceding the election of President of the United States. To that I am opposed. We have provided in the article on the Executive that the Governor shall be ineligible for a second term, and we have provided that the Governor's term shall be four years. I see no reason why the latter principle should not be introduced on the adoption of this Constitution; and in extending the term of the present Executive until January, 1877, we are but following the line of precedent established by the Constitutional Convention of 1837, and we are following the rules which we have established here of requiring the elections of Representatives and Senators to be in the even years. We have just adopted an amendment providing that Senators shall be elected under this Constitution at the general election in 1874. Now, if we adopt the amendment just offered, we shall be in the anomalous position of electing the Governor in an entirely different year from that in which members of the Legislature are elected. I am opposed to

the amendment and in favor of the section reported by the Committee on Schedule.

Mr. D. W. PATTERSON. The acting chairman of the committee supposed and still supposes that the Convention understand what they are doing, and if they are in favor of having two exciting elections in every four years, of course they will adopt this amendment. I think it bad policy myself; I am utterly opposed to it for the reason of expense and demoralization of the community. We have left the election of the Auditor General and Secretary of Internal Affairs to be in the odd years between the presidential and gubernatorial elections for the very reason that there will then be no excitement, and those officers will most likely be selected and elected on their merits. So as to the members of the Legislature three years out of every four, both Senators and members of the Lower House, there will be no exciting gubernatorial or presidential elections to carry them through, and all parties under those circumstances will be apt to present their best men, and they will have to run upon their merits. That was an object with the committee in fixing the gubernatorial election to happen in 1876, and every four years with the presidential election, so that the other State officers as important as the Executive under this Constitution may be elected with a view to their merits. Under this Constitution the Secretary of Internal Affairs will exercise more authority and more power to move the law to protect the citizens in every way than the Executive.

Mr. CURTIN. Allow me to ask the gentleman a question. Suppose the present Governor dies and the President of the Senate takes his place, will your article give him a year more?

Mr. D. W. PATTERSON. Not as we have it. We have proposed that in any case of a vacancy the election shall be for the unexpired term, for the reason that the article says the Governor and Lieutenant Governor provided for in the new Constitution must be elected at the same time, in the same manner and subject to the same provisions. The case now suggested is an omission which we have not provided for.

But, sir, the members of this House I think understand this question. If they are determined to have two exciting elections in every quadrennial period, they will adopt this amendment. The result

will be that other State officers, such as Auditor General and Secretary of Internal Affairs, will be chosen not upon their own merits, but upon the excitement of a gubernatorial election. If members of the Convention are in favor of having as few exciting elections as possible then this amendment ought not to prevail. That is all I have to say.

Mr. MACVEAGH. I am certainly very anxious to bring this Constitution into harmonious working at the earliest date possible; but it is a very grave objection that in order to reach that result we are asked by our vote to extend the term of an elective office. The people certainly, as it seems to me, are entitled to pass upon that question, and while we ought not to attach any ineligibility to any person now in office, and where we possibly can avoid it, we ought not to turn them out of office, we clearly ought not, except under the pressure of a great necessity, to extend their offices by the terms of this Constitution.

Mr. D. W. PATTERSON. It was done in 1838.

Mr. MACVEAGH. It was done in 1838, and in an amendment we recently adopted we turn a number of gentlemen out of office as Senators of the State; but it seems to me undesirable to reach that result if we can reach symmetry in the operation of this Constitution in any other way. I am at a loss to see why the same symmetry would not be reached by limiting the term of the first Governor elected under this Constitution to three years. That reaches precisely the same result and brings it into perfect harmony, and does not expose us to the palpable objection that we are endeavoring, by our own vote, to continue the executive power of this State in the hands of the present Executive without the ratification of the people, and I do not think that matter is involved necessarily in the adoption of this Constitution, and that a vote in favor of the adoption of the Constitution would necessarily be a vote in favor of the extension of the term of the present Executive.

Mr. BRUCKALEW. I desire to make a few remarks in justice to my own position on this subject. It is well known to the Convention that I am strongly in favor of allowing the Governor to be eligible to a re-election. I did my best in committee of the whole and on second reading upon the executive article to get the Convention to adopt that view, and one of the strongest objections I have to

our work is the interjection of this one term principle into our Constitution. I think it is going down hill, and that a very steep grade, belittling the two main officers in our State, and in every way objectionable. But so far as the present question is concerned, I for one, do protest against the injustice and outrage of thrusting down the throats of the people a Governor that they do not elect, whether for one year or for three years. I object to it on behalf of thousands of men in this State who will be offended at this violation of established principle in our electoral system.

This thing is all done, this violation in this section of established principle in this State and of a fundamental principle of free government everywhere as now understood, is all done in order to get to the blessed year 1876 and to every fourth year afterward, so that Pennsylvania and her political interests and elections shall be always tied fast to a presidential kite, to be flown where that flies, to go up and down according to the movements of national politics abroad.

I hope yet upon second reading of this article we shall reverse the action which we have taken upon a previous section and allow this new gubernatorial term in 1875 to go into operation naturally and properly, and along with it our legislative election; but for the present on this simple question of extending the Governor's term, although in favor of his re-eligibility to election and desiring yet if it be possible to accomplish that object, a darling one with me, yet I protest against extending terms here by this Convention, compelling the people of this State to take something they do not choose in order to get our Constitution amended. It is all wrong to combine these two things.

Mr. J. N. PURVIANCE. Mr. Chairman: I move that the committee of the whole now rise, report progress, and ask leave to sit again.

The motion was agreed to. The committee rose, and the President having resumed the chair the Chairman (Mr. Cassidy) reported that the committee of the whole had had under consideration the article reported by the Committee on the Schedule and had instructed him to report progress and ask leave to sit again.

Leave was granted the committee of the whole to sit again on this evening.

Mr. BIDDLE. I should like to ask a question. Do we meet to-night at seven o'clock.

The PRESIDENT. We do.

Mr. DARLINGTON. I move that the Convention now take a recess.

The motion was agreed to; and (at two o'clock and fifty-seven minutes P. M.) the Convention took a recess until seven o'clock P. M.

EVENING SESSION.

The Convention re-assembled at seven o'clock P. M.

INVESTIGATION OF CHARGES.

The PRESIDENT appointed as the committee to investigate certain alleged charges against members of the Convention, under the resolution adopted this morning, Messrs. Boyd, Lawrence, Andrew Reed, Struthers, Kaine, Porter and Stanton.

THE SCHEDULE.

Mr. MACVEAGH. I move that we go into committee of the whole for the further consideration of the report of the Committee on Schedule.

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

The CHAIRMAN. The question before the committee is on the amendment moved by the gentleman from Allegheny (Mr. S. A. Purviance,) to section ten.

Mr. HARRY WHITE. I move the following amendment to the amendment offered by the delegate from Allegheny. I move to strike out and insert:

"The first election of Governor under this Constitution shall be at the general election of 1875, when a Governor shall be elected for three years, and the term of the Governor elected in 1878 and those thereafter elected shall be for four years, according to the provisions of this Constitution."

The PRESIDENT. The question is on the substitute moved by the gentleman from Indiana.

Mr. BUCKALEW. Under that the gentleman will have a Governor elected for three years and a Lieutenant Governor for four.

Mr. HARRY WHITE. Mr. Chairman: It seems to me that this amendment does not require any explanation. I apprehend it will explain itself. Delegates will understand that the term of the present Governor expires on the third Tuesday in January, 1876. The proposition now offered is to recognize that fact and to provide for an election of Governor as usual

for the period of three years, which will make the second election of Governor under the new Constitution at the general election in 1878, and after that for all time a Governor will be elected for four years. It recognizes the law and the provisions of the present Constitution so far as regards the present Executive and his immediate successor.

Then as to the remark made by the delegate from Columbia, that you will elect a Lieutenant Governor for four years and a Governor for three years, such is not necessarily the case. It will be very easy when we approach the question of the election of a Lieutenant Governor, to offer an amendment making that entirely harmonious with this provision. You can elect a Lieutenant Governor if you please at the election of 1874, for one year, and then elect him with the Governor in 1875 for three years, putting him upon the same basis as the Governor. There is no difficulty in making it harmonious.

Mr. MACVEAGH. It seems to me that the Convention only needs to understand this proposition to accept it. It just divides the presidential term of four years in two and elects the Governor in the middle of it, and it puts the Constitution in immediate operation. The Lieutenant Governor being elected for four years will exactly make them agree. The last year of the present Governor's term will be the first year of the new Lieutenant Governor, and the other three years of the new Lieutenant Governor will exhaust the term of the Governor first elected under this Constitution. After that, they will be elected at the same time right in the centre of the presidential term, so that we shall have the matter as far removed from the turmoil of national elections as possible. It certainly seems to me to coincide exactly with the amendment we adopted this afternoon, to put this new Constitution in working order, if it is adopted, immediately. Make the apportionment by the next Legislature; elect the Senate in 1874, elect the new House in 1874, and elect the Lieutenant Governor in 1874, and elect the Governor in 1875 for three years, which exactly falls in with it precisely and harmonizes the entire system, making it uniform and regular.

Mr. CURTIN. I am quite satisfied, I do not know how the other members of the Committee on the Executive Department may be, with this proposition. It accom-

plishes one purpose. It takes the election for Governor of the Commonwealth entirely out of the election for federal officers. It seems to me very proper.

Mr. BUCKALEW. The gentleman from Centre does not observe the point. You want the Legislature elected at the same time as the Governor, in order that the Legislature may be in session when he is inaugurated. That is the object. By this change you will not make it run to elect members of the Legislature at the proper time.

Mr. MACVEAGH. Certainly you do perfectly. You select the entire new Legislature in the fall of 1874—the new House and the new Senate. You start fresh in 1874 with a new Legislature, a new Senate, a new Lieutenant Governor, and your Governor will have a year to run. Now, then, when his term is out, by electing the new Governor until 1878, for three years from 1875, his term expires precisely when the terms of half of your Senators and when the terms of members of your House expire. Thus one two years you elect your President, members of Congress and of the Legislature; the next two years you elect your Governor and Legislature. That is, it will begin in 1874 and 1876. You will have one odd election for Governor in 1875 which you cannot help, if you do not extend the term of the Governor now in office, which would be a mistake in my opinion, certainly a great mistake.

Mr. BUCKALEW. That is, you would elect your Governor along with your members of Congress every second year.

Mr. MACVEAGH. Yes, sir; that is, every four years the election of members of Congress will chime in with the election of Governor.

Mr. BUCKALEW. I mean every second time.

Mr. MACVEAGH. Every second time, but not with your election of President and Vice President.

Mr. BUCKALEW. But you have your members of the Legislature elected along with the members of Congress every time, and every other time they are to be elected along with the President.

Mr. MACVEAGH. Yes, sir. That is, you have elections between the long year, taking your Chief Executive out of the question of a national canvass and taking your national canvass out of the question of the election of your Chief Executive. It is the only possible way in which your elections can be har-

monized. It harmonizes perfectly. This is the only plan that can harmonize and that will work out. It works out the system perfectly. Now, do not let us stop to calculate how it will result. It is the only true doctrine. It preserves the principle that we all uttered in the biennial plan, and it will help to give us better men by calling the better men of your State to your political service, because it will help to bring better citizens into more active discharge of your political duties.

Therefore I trust the amendment will be adopted.

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

The amendment was agreed to.

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

Mr. JOSEPH BAILY. Let it be read.

The CLERK read as follows:

"The first election of Governor under this Constitution shall be at the general election in 1875 when the Governor shall be elected for three years, and the term of the Governor elected in 1878 and those thereafter elected shall be for four years according to the terms of this Constitution."

The section as amended was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 11. At the general election in 1876, a Governor and a Lieutenant Governor shall be elected according to the provisions of this Constitution."

Mr. MACVEAGH. I move to amend by saying "at the general election of 1874 a Lieutenant Governor shall be elected according to the provisions of this Constitution."

Mr. HARRY WHITE. I beg leave, if the gentleman from Dauphin will allow me to suggest an amendment.

Mr. MACVEAGH. I will give way in order to allow the gentleman to read his amendment.

Mr. HARRY WHITE. Then I offer the following amendment:

"The Lieutenant Governor shall be elected for one year at the general election in 1874. In 1875 a Lieutenant Governor shall be elected for three years, and the Lieutenant Governor elected in 1878, and those thereafter elected shall be for four years under the provisions of this Constitution."

Mr. MACVEAGH. That does not carry out my idea. I gave way in order that that amendment should be read, but I cannot give way in order that that amendment shall be presented, for it does not at all agree with what I have submitted. If we elect a Lieutenant Governor next fall, we shall elect him for four years, and his term will consequently expire in 1878, when we shall elect a Governor for four years.

Mr. CURTIN. That is perfectly right.

Mr. MACVEAGH. Therefore I must insist upon my amendment.

Mr. HARRY WHITE. I withdraw my amendment for the present.

Mr. COCHRAN. I move to amend the amendment of the gentleman from Dauphin by offering as a substitute for the section the following:

"A Lieutenant Governor and Secretary of Internal Affairs shall be elected on the same day on which the qualified electors of this Commonwealth shall vote on the question of the adoption of this Constitution, and serve for four years from the third Tuesday of January, 1874, should this Constitution be adopted by a majority of the votes given on that question."

Mr. Chairman, I consider this an important amendment. Possibly I have not got the dates exactly right, but I want to indicate my purpose in offering it. I think it should come in here, and I will briefly invite the attention of gentlemen to the proposition.

Mr. MACVEAGH. I desire to interrupt the gentleman for a moment on a question of order. While it is undoubtedly in order for him to have that substitute read to indicate that he will offer it in case my amendment is voted down, I insist that that is not an amendment to my amendment. ["Yes it is."] A substitute for the original section?

The CHAIRMAN. It is a substitute and the original can all be stricken out.

Mr. COCHRAN. Now, the view I have in this matter is a very simple and a very single one. I believe the determination of this Convention has been manifested by voting on the schedule this afternoon to submit this new Constitution to a vote of the people before the ensuing first day of January, and we have been told, and told with a strong appearance of probability to sustain the assertion, that it will be impossible in that season of the year to obtain a full vote of the people. Indeed it was said here that not one-third of the people could be induced to vote on

the abstract question of accepting or rejecting this Constitution in the month of December. Now, then, I consider it to be a matter of very great importance that we should connect with this matter of voting on an abstract thing something which is practical and personal; that candidates should be brought out before the people and that the election of those candidates should be connected with the question of the adoption or rejection of your Constitution.

If gentlemen will look at the returns of the great election of 1838, which was one of the fiercest campaigns that I remember in the course of my political experience, they will notice that while the excitement on the subject of the election of Governor was intense and all the efforts, and I might say all the money, (for I do not believe there ever was so large an amount of money bet on any election before or since on the part of both parties,) were brought to bear on that election, yet the election for the amendments to the Constitution held at the same time fell very far below the aggregate number of votes given to the candidates for Governor; and I will venture to say that the election of a sheriff in any county of this Commonwealth will be more influential in bringing voters to the polls than you can bring out at any election on the provisions of a Constitution alone.

Now, the idea which I have in offering this proposition is to connect with this election on the Constitution the election of two of our State officers who are provided for in this instrument. This will have the effect of arousing popular attention, it will have the effect of bringing forth candidates by both the political parties if you please. They will assemble in their conventions for the purpose of making their nominations; they will nominate their candidates; the candidates and their friends will take a direct interest in that election in getting the vote polled; they will bring that vote to the polls, and you will then get a fair expression of popular sentiment on the subject of the adoption or rejection of this Constitution.

That is all there is in this amendment which I propose. I think it is a practical suggestion, and I think it is a very important one.

Mr. CALVIN. Why not include the Supreme Court judges?

Mr. COCHRAN. That can come in afterwards. We are now on that part of the schedule which refers exclusively to the

Executive department of the government, the Governor and other State officers. The judiciary comes in afterwards; and besides that, the election of the judges, I may suggest, will not have the same practical effect, because those two judges are to be elected on the limited plan, and when they receive their nominations their election will in all probability be secured. But here is a practical test to apply, and I feel satisfied that if the Convention will adopt this plan, and insert it here if this is the proper place, and it strikes me that it is, you will secure a fair and full expression of the public sentiment with regard to your Constitution. If you have a small vote, a very light vote, not bringing out one-third of the electors of the State, in all probability your instrument will go under in consequence of the active influences which will be brought to bear against the adoption of the Constitution.

Mr. NILES. I should like to ask the gentleman a question.

Mr. COCHRAN. I would rather not answer any question. I hope the gentleman from Tioga will express his own views on the subject.

Mr. NILES. I simply desire to ask the gentleman what will become of your Secretary of Internal Affairs and Lieutenant Governor if the Constitution should be voted down?

Mr. COCHRAN. They will not go into office. Their entering upon the duties of their offices will depend upon the adoption of the Constitution, and so it is expressed in the amendment which I propose. As I understand—I have not examined that matter myself—this plan was adopted in Illinois when the present Constitution was submitted to a vote of the people of that State.

Mr. MACVRAUGH. This is a matter that I trust this Convention will not hurriedly rush into. There are very grave considerations weighing against this proposition in my own mind, and I should be very glad to hear from some of the more experienced members of this Convention before I am asked to vote upon it.

I do not like it, in the first place, because it shows the white feather. It is a confession that a trick must be resorted to in order to carry this Constitution, and I do not believe a word of it. I believe if you go before the people of this State upon this instrument mainly as it is settled to-night, as compared in the whole with the whole of the existing Constitu-

tion, they will adopt this instrument. But if you bring the two great political parties of the State into State Convention, if you allow political and personal passion to be aroused, and the possibility of any party being arrayed by the edict of a State Convention against many of your articles, you incur a far more serious danger than any advantage you are likely to receive.

In the next place, it is unexpected to the entire people. Some reason must be given, and if you tell the reason, it is that without it you do not think your work would be adopted. Gentlemen, you can trust the people of this State, in my judgment, to adopt this instrument upon its merits; and for one, I shall most sincerely regret doing any unusual and unexpected thing, anything that wears the appearance of a trick, in order to secure support for it. I know it is not so designed. I know that the mover of it is as incapable of that as any man in the State; but nevertheless to ask the political parties of this State now to re-assemble in State Convention to discuss the merits of possible candidates and to get ready for an election in the month of December for four years to two of their most important offices, is certainly doing something that is wholly unexpected, and something that will be set down as a confession of fear.

There is no necessity for this. If these men are elected what has the Lieutenant Governor now to do? Why should he go in to preside over the Senate elected under the old Constitution? How does it fit at all with your work? How will it be with electing the Lieutenant Governor now in the middle of December, a time when the people of this State have never been accustomed to vote for any of their great officers? And it is proposed to link with that the election of the Secretary of Internal Affairs, and to ask the people now, just having closed a State canvass, to enter upon a political crusade again and to divide us again on the very day of the election into two hostile camps, Democrat and Republican. Surely, that is unwise. Surely it is unwise that each man when called to vote yea and nay on this instrument should have spent the preceding six weeks not in a calm discussion of it, not in a careful review of it, but in urging his neighbors to vote for Smith, his party candidate, rather than for Brown, the candidate of the opposing party. It will become the shibboleth of party politics,

and you incur serious risk without any adequate result. It is always unwise to do the unexpected thing in public affairs. It is always unwise to run counter to the settled habits, traditions and prejudices of as conservative a State as Pennsylvania; and to ask our farmers now to consider candidates, to send delegates to State conventions, to marshal themselves in partisan array from Lake Erie to the Delaware under party banners to struggle for supremacy, when we want a non-partisan consideration of this instrument, seems to me exceedingly unwise.

Mr. LANDIS. Mr. Chairman: I do not rise for the purpose of discussing this question, although I must say that I think very favorably of the proposition. I would remind the gentleman from Dauphin that precisely the same course was pursued in the State of Illinois at the time the new Constitution was there submitted to the vote of the people. I would also remind him that precisely the same course was taken in the State of West Virginia when the last Constitution was there submitted to the people; so that we are not without precedents in regard to this matter. The probabilities are that it may work quite as well here as it has done elsewhere.

The real argument to be adduced in favor of it is that it really does arouse the public attention, it really does bring the public mind to the consideration of all questions that are submitted to the people in the Constitution, because when they are called upon to select some of the officers who are provided for in it, there is a keener sense of public duty, there is a more lively comprehension of the features of the instrument itself, and there is in addition to that the interest of the great parties of the State who are each anxious to secure the election of their respective candidates.

The difficulty that I see in this amendment is that the election of Secretary of Internal Affairs this winter may interfere with the present term of office of the Surveyor General. If it does not, there is no difficulty in my mind in regard to this amendment.

Mr. HARRY WHITE. The proposition offered by the delegate from York is a very important one. As I comprehend it—if I apprehend it fairly—it proposes that the people of the Commonwealth shall vote for a Lieutenant Governor and a Secretary of Internal Affairs at the same time that they vote on your Consti-

tution and its amendments, with the understanding that if the Constitution is adopted, or these features of it are adopted, the persons receiving the highest number of votes in that election shall be Lieutenant Governor and Secretary of Internal Affairs for the periods respectively named in the Constitution. That is the proposition. Is it a good one or is it a bad one? The delegate from Blair, (Mr. Landis,) who preceded me, has well said that we are not without precedents in this regard. I do not think he is exactly accurate in citing Illinois as a precedent. I do not recollect how that was, but certainly in the State of West Virginia under the Constitution of 1872 this course was pursued, and the present Executive in that State holds his office to-day by virtue of an election held at an irregular time, or at the time on which the people voted for the Constitution. Other precedents over the country could be cited, so that so far as that is concerned, the proposition is not novel.

Is it wise to do it? It is, perhaps, somewhat novel to us because it has not been much thought about, nor talked about, but the more I have thought upon it and the more I talk about it, the more I favor it, and I am now prepared to vote for it and hope it will receive the votes of a majority of this Convention. The true motive of this is that I find myself in favor of the adoption of this Constitution, and I hope the majority of the delegates to this Convention are, and I shall be very glad to exert myself in behalf of it unless something is done which has not now been done, to finally prejudice me against it. While that is so, and we all individually favor the adoption of the Constitution, we are but single individuals and we are sufficiently practical in the politics of the country to understand that in the dead of winter or in the beginning of winter, with financial embarrassment all around the country, it is impossible, on a mere sentiment, to enlist the active political interest which is required to secure the adoption of this Constitution.

The eloquent delegate from Dauphin, the silver tones of whose voice always make an impression upon me, talked here of cowardice, talked of showing the white feather. I do not understand the delegate when he administers that criticism to the gentleman who offered this amendment. Showing the white feather! At what? Are we afraid of the people? No one of us! No man who has identi-

fied himself with this Constitution in some of its substantial reforms, is afraid to go before the people and exercise what little influence he may have in behalf of its adoption. But while we are thus sincere, we are practical men; we know that the politics of this country and the politics of this State are carried on, at all events, by individual influence. If we have a mere idle sentiment without enlisting the active support of individual citizens, your elections and your contests vanish into thin air. No, sir! It is your contests for sheriff, it is the candidates for local offices and candidates for important State offices which lend interest to our political campaigns, who either are the representatives of particular ideas or are the representatives of political parties. Hence I say there is nothing inconsistent whatever with our idea of reform in associating some candidates for the important offices we create in this Constitution with the voting upon the Constitution itself.

The delegate has talked about throwing partisan politics into the Constitution. Why, Mr. Chairman, what we want is the active interest of both political parties in this Commonwealth thrown in support of this Constitution. No more efficient way of doing that can be conceived of than to let each party meet in convention and nominate aspirants, who will then be made in favor of the new Constitution. Nominations will be made, and all of them will, from the necessities of their position, advocate the adoption of the new instrument.

These, and other reasons which I could offer if I should desire to trespass upon the time of this Convention, induce me to vote in favor of the proposition. The delegate from Dauphin inquires how will you make it harmonize? It is not in conflict in any respect. You have your Senate, and your Lieutenant Governor can take his seat as the presiding officer of the Senate as it now exists and can exercise all his functions. Your Secretary of Internal Affairs can be elected and enter upon the discharge of his duties. If there is any necessity, which I do not apprehend will exist, for any regulations upon this subject, statutory provisions can be made to conduct the new condition of affairs under this Constitution.

Mr. W. H. SMITH. I hope that this amendment will be defeated. I hope that this amendment will not prevail. Let us vote for the Constitution as a whole,

mixed up with no other issue. Let us not advocate party politics, but throw them aside altogether, and all parties, of course, can come up to its support without the complications of the political measures that have been mentioned here. We should submit this Constitution as a whole without dividing it in any part, to show our own estimation of our work, and we should do it irrespective of and disconnected with any other question of canvassing. If you hold an election whereby a Lieutenant Governor and a Secretary of Internal Affairs will come in at unusual times, the people will be called out at unusual times and you cannot nominate without extraordinary trouble. You cannot get any Convention together, because it is out of the usual way, and the people will give their attention to the political aspect of the case and will give their attention to the candidates to be nominated and pay no attention to the details of this Constitution. The two things ought not to be mixed up. When we go before the people on the first of December, because it is the general impression that we shall conclude our labors very soon, and submit our Constitution for ratification or rejection on that day, the people of the State want no other issue presented. I would like to see this Constitution submitted without connection with any party politics, without association with any candidates, without the calling of any political conventions, and without the trouble and excitement of making nominations. I hope this amendment will be defeated.

Mr. NILES. If the Convention are ready for a vote upon this question, I do not desire to take up their time. I am, however, sir, decidedly opposed to this amendment. It is but a sorry compliment to the people of this State to say, or to intimate, that they will not adopt this Constitution unless they are permitted to enjoy the poor privilege of electing a Lieutenant Governor and a Secretary of Internal Affairs at the same time. I agree entirely with what has just been said by the delegate from Allegheny (Mr. W. H. Smith.) I am one of those who believe in the important changes that have been made in this instrument, and I believe they are important enough to be submitted to the people without being connected with any other subject. I do not believe that there adoption or rejection depends upon the fact as to whether we intend to allow the people the poor boon of nominating and

electing to office a Lieutenant Governor and a Secretary of Internal Affairs.

There is another reason why this, in my judgment, ought not to pass. The present Senate is not constituted for a Lieutenant Governor; it is the old Senate elected under and in pursuance of the old Constitution with an odd number, and the election of a Lieutenant Governor will make an even number, which was not in our contemplation when we agreed to this proposed change.

But, sir, there is another stronger reason, to my mind, than this, why this proposition ought not to be adopted. We have been in session here for a year, and I am pleased to say that no direct political vote has ever been given in this body. We have had here none of the acrimony of political strife and political discussion; and when we submit our work to the people and when as I trust every member of this body will be an apostle to preach the new doctrine, I hope that we shall not be burdened and bound down by nominations that have been put upon us by a political Convention, but will submit our work pure and simple, untrammelled by any political affiliations or party ties whatever.

Mr. H. G. SMITH. I merely wish to enter my protest against this proposition. I think the people of this State, (whatever gentlemen may think,) throughout the length and breadth of it, the thinking, earnest men of this Commonwealth of Pennsylvania, the farmers, the mechanics, the business men, the men who read and think more perhaps than most of us give them credit for, have been deeply impressed with the necessity for reforms in this Commonwealth. They have followed our work as carefully as they could; and when this paper as we send it forth is laid before them and published by the authority of the Commonwealth, they will read it carefully at their homes, and sir, they will need no paltry incentive to send them to the ballot-box. It is emphatically true, as the gentleman (Mr. MacVeagh) says, that we want the honest, intelligent, independent voters of this Commonwealth to go to the ballot-box of their own motion and their own free will, and as the gentleman from Dauphin remarks, we do not care about the presence of the men whom the politicians will drag to the polls, and whom the politicians of either party can vote just as they would "dumb, driven cattle." We want the honest, intelligent men of

this Commonwealth to go of their own motion in this matter, and they will go. I have no apprehension in regard to the work of this Convention. I believe the people of Pennsylvania are prepared to adopt it, and that they will adopt it by a decisive majority, and I believe that the election, which will be held in the middle of the winter will surprise by the strength of the vote polled, even the most hopeful members of this Convention.

Mr. CALVIN. Mr. Chairman: I presume that the members of this Convention desire, very generally, at least, that this Constitution shall be adopted. Now, it is perfectly certain, as has been said already by several gentlemen, that if the election be held in the depth of winter and without any candidates being before the people, the vote will not be as large as it would otherwise be.

Now, we do not propose by submitting the election of these candidates to array partisan feeling or to array the politicians against it. As gentlemen have said, we desire, on the very contrary, to array them in its favor, and I do not see any trick, any impropriety, in making use of all proper influences at our command in order to secure the approbation of the people for this Constitution. If you submit candidates on both sides for Secretary of Internal Affairs and Lieutenant Governor and judges of the Supreme Court, you will not array the politicians against your Constitution; the politicians will most likely be in favor of it; they will be in favor of their respective candidates, and they will know very well that if they elect their candidate, unless they adopt the Constitution they have elected their candidates in vain. There is no trick, no impropriety at all in this whatever. If you submit this Constitution by itself, the danger is that the politicians and the rings and the cliques may unite against it, and that they may give us serious trouble, especially if there should be a very small vote out. But by presenting candidates for these various offices you neutralize the politicians and the rings effectually; you do not excite political prejudice or partisan prejudice against the Constitution, but you really enlist the feelings of both parties in favor of it.

Now, though this Constitution is not exactly what I would desire it to be, though there are some things in it that I should alter if I had my way, yet there are so many good things in it that I con-

sider it exceedingly important should be ratified, that I am in favor of all just and honorable means to secure that ratification, and I can see no more potent and effectual means imaginable than the one proposed by the amendment of the gentleman from York. It looks to me as though that would secure beyond all peradventure the adoption of the Constitution, and I am therefore cordially in favor of it.

Mr. MANN. Mr. Chairman: It will be a mistake for this Convention to understate the influence of what are termed "politicians" as to their actions upon this Constitution. Who are the politicians? They are the men that take an interest in voting, and if you drive them away from the polls or say they are of no use and that their influence and help is not desired and not asked for in support of this Constitution, you will get a very beggarly vote in its favor. I have no sympathy with or understanding of the idea that is frequently expressed in this Hall that it is better to drive away from the support of our Constitution all the men who take an interest in voting and in politics. We have come to use this term in a very offensive way. I know very well, nevertheless, I insist that it is our business to invite these men to come to our support rather than by despising them to drive them away from us.

But notwithstanding all that has been said in eulogy of this Constitution, notwithstanding I do believe there are embodied in it very great and important reforms to the people of Pennsylvania, I believe there is some danger that it will fail because of the loading down we have indulged in. We have loaded it down very heavily, so heavily that it will be unfortunate if we load it down still more in the schedule that we are framing. I think we did load it down most unfortunately this afternoon, and that we are bound to take the back track upon that question or it will go under. We undertook this afternoon to legislate out of office twenty-two of the most active men in Pennsylvania, twenty-two Senators, eleven of them just elected; the others elected a year ago; and, sir, I undertake to say that unless that action is reconsidered, it will be exceedingly difficult to adopt the Constitution we have framed. Just look at it. Will Senator Dill and his friends in the district which he has carried so overwhelmingly consent to have him

turned out of his seat and another election ordered? Not a bit of it; and he and his friends will all be actively enlisted to defeat such injustice. They will feel that a gross wrong has been done him, and will resent it; and there are twenty-one other Senators in precisely that condition, every one of whom and the friends of whom will resent as a gross injustice this action of ours to deprive them of the offices to which they have been elected. The people of Pennsylvania never have looked with favor upon any act of the Legislature or any act of any other body that attempted to legislate out of office a man who has been fairly put there by the popular will. No act of the Legislature of Pennsylvania could be sustained for a moment that attempted to legislate men out of office, and an act of this Convention doing that will have no more respect paid to it than would a similar act of the Legislature. It is a gross injustice, and injustice always creates opposition and resentment.

Mr. Chairman, notwithstanding the Constitution that we have prepared contains a great amount of good, the schedule we are framing, unless we are more careful than we seem inclined to be, will endanger its adoption, and it will need just that influence which the amendment of the gentleman from York is calculated to bring to its support.

I should like to have the gentlemen who are opposed to this amendment state some substantial reasons against it. It will not do to say that it is a trick. The common mind cannot discover any trick about it. It simply provides that at the time you submit this Constitution to a vote of the people, two of the officers that it provides for shall be elected. Where is the trick? It is an invitation to the people to vote at the same time for the Constitution which we have prepared, and for two of the offices to be filled under it. That is plain and straight forward, and is nothing but just what it purports to be, an additional inducement for voters to come to the polls and vote, and that is the very thing that will be most needed at the election at which this Constitution is to be submitted. Of course the people, if they come to the polls, will endorse it. I think there is no doubt of that, but I say the difficulty will be to get them to come out and vote. How is that to be done most effectively? I am sorry to differ with my colleague, with

whom I generally agree on all questions, but I certainly think he is mistaken on this question.

Sir, what is this proposition but an invitation to the people of Pennsylvania, an additional inducement to come to the polls? Is it anything more than that? And is not that the very thing that we shall be compelled to do by all the effort that we can make to get the people out? If it will have that effect and no bad effect, why should it not be adopted?

I desire the attention of the gentleman from York for one minute as to the words of his amendment. I submit that it is not properly drawn, for as it now reads it will elect a Lieutenant Governor again in 1877, whereas he should be elected in 1878. When it is modified to make it correspond with the Constitution in other respects and with the schedule in other respects, I will cheerfully vote for it.

Mr. LEAR. Mr. Chairman: During the past twelve months I have heard, if I have not learned, many new things; but of all the remarkable propositions which I have heard in this Convention that which is embodied in this amendment is the most remarkable. This Convention, at various times and in many of its suggestions and manifestations of power, has assumed to be the absolute and sole governing power of the State of Pennsylvania, but it would seem to me to be well enough to understand that we were elected with limited powers. The act of Assembly under which this Convention was ordered to be organized provides that there shall be a Convention to amend this Constitution. And it does not even provide for a submission of the instrument which we shall agree upon to a vote by the people, although a subsequent act does. It certainly does not authorize us to provide for the election of officers not heretofore known to the Constitution or laws of this State; and although it seems to be agreed by unanimous acquiescence, according to the tone of the members of this Convention, that the sections and articles which we agree upon before they become part of the Constitution, shall be ratified by a vote of the people, yet here is a proposition by which we are asked to agree and ordain that two officers, heretofore unknown to the law, and whose official existence does not now find any place in the Constitution or in the laws of this State, shall be voted for at an election for which there is no authority under the Constitution or the laws, and which we

have no right or authority to order. If we provide in the instrument or in this schedule, or in an ordinance to follow them both, for the submission of the article which we agree upon to a vote of the people, it is certainly all that we have the right or the power to do; and yet we are asked to organize an election board to vote for candidates for official positions which do not exist in the State of Pennsylvania.

Where is the man in this Convention, or outside of it, who would be willing to have his name submitted to a vote of the people of Pennsylvania for Lieutenant Governor or Secretary of Internal Affairs, when no such offices exist, and no such offices can exist until this Constitution is adopted, and the Governor by his proclamation declares that it becomes the fundamental law of the land? Would any man, with proper self-respect, be placed in such a humiliating position? And yet we are asked to perform the child's play of submitting to the people the election of two men to high official positions for which there is no authority, simply for the purpose of bidding for the support of the people. The candor of the gentleman from Blair and the gentleman from York and the gentleman from Potter, and all the others who ask to have this amendment adopted, is most remarkable when they admit that this effort of ours at Constitution making is so imbecile that it cannot stand alone without the support of the friends of the candidates upon the one side and the other, who are by their votes at the same election to create the offices in order that their friends may have the official positions to which they aspire, which can be done only by adopting the instrument, and without this tempting bait our work will be ignored by the people.

Why, Mr. Chairman, a week or two ago when it was objected to a section that was proposed to be placed in this Constitution that it had no importance and could have no beneficial effect as a part of the Constitution, a gentleman rose in his place upon this floor and said, that although he admitted that it was entirely without value, yet it was worth something as a tub to the whale, a bait for the people to bite at, in order that they might be influenced to support and vote for the Constitution which we were about providing. Mr. Chairman, do you think that we are going to get support for the instrument that we are trying to agree upon, by such left handed compliments as these to the in

telligence of the people? Do they not know what they want, what the evils are that we were sent here to remedy, and what the interests of Pennsylvania require at their hands, without our throwing a tub to the whale or a tempting bait that they may be lured to nibble at in order that they may swallow this instrument? Take care that while we are thus trifling with the intelligence of the people of this State—and I have a very considerable regard for the intelligence of the people—they do not turn upon us and say: "While we like your bait, while we are willing to swallow that, we will not take hold of your hook."

Now, if there is anything in this that has the semblance or nature of a hook that they are to be persuaded to swallow by reason of some tempting bait, I say it is unworthy of their representatives, as we are, to submit to them anything which is to lure them to take that which would not be voluntarily taken by them without such a lure; and I say that it is unworthy of us to try to tempt them to do a thing of that kind, it is still more unworthy of them and of us to be going through the idle ceremony of electing men to official positions which have no existence in the law or the Constitution. We are providing for an idle ceremony when we adopt an amendment which authorizes the election or the voting for men to fill the offices of Lieutenant Governor and Secretary of Internal Affairs before such offices are created for candidates to fill, for if such officials should be elected without law or authority, and the Constitution should be adopted providing for these officers, the offices would have to be filled by a subsequent election, and those who had been elected without authority would still be without offices, and the officers elected after the adoption of the Constitution would assume the duties and fill the positions, leaving the others who had been elected before the creation of the offices, although elected, to stand by and see others fill their official positions. An election held before the offices are created would be void, although the offices should be created at the same election; for on the day the officers would be voted for there would be no such official positions, and no subsequent change in the law or Constitution could galvanize that into existence which was a corpse on the day of election.

The CHAIRMAN. The question is on the amendment of the gentleman from York (Mr. Cochran.)

Mr. HOWARD. Before the vote is taken on this subject, I wish to say a few words, because I believe the proposition of the gentleman from York is a good one. Something has been said about the election of officers that are unusual. Certainly, sir, the election of these officers will be very unusual to the people of Pennsylvania, because they are entirely new. They never before have elected any such officers. I have no doubt though with regard to the right of the Convention to provide for choosing these officers at the same time with the election on the adoption of the Constitution. I take it it is only a question of policy. If we had no precedent whatever in regard to it, it would be simply a question of policy. If we have a right to declare that an officer may be chosen within a month or within a week or within a year after the adoption of the Constitution, we may declare that officers may be chosen when the people vote upon the Constitution, and that if the Constitution shall be adopted the officers thus selected shall be considered properly chosen and installed in their offices.

Now, Mr. President, why should we, at the time that we vote for the adoption of the Constitution, if possible, vote for these officers, before these officers are authorized? I have listened to the argument of delegates here, I have heard what has been said on both sides, and I suppose that perhaps there may be some delegates in this Convention opposed to this Constitution. Some of them perhaps will vote against it, if they will stand by the declarations that they have made. I know, sir, that the word has gone forth from high authority, that represents a great deal of power in this State, that this Constitution is to be beaten, and that, if it cannot be beaten in any other way, it is to be counted out. Delegates object here to politicians going to the polls, and to their voting for candidates for office, because the politicians will be busy in bringing out the voters? If the politicians interested in the candidates bring men to the polls to vote for their candidates, they are bound to vote for the Constitution. Otherwise their candidates cannot hold their office, and the friends of this instrument should not be intimidated by any argument of this kind.

I know the power that is to be arrayed against this instrument. I know that it is a fearful and a terrible power, and one that the people of this Commonwealth

have every reason to dread. We have witnessed it in the past. We have witnessed its control over the members of the State Legislature. It has been wielded mercilessly against the rights and the interests of the people of this State. It will be wielded for the destruction of this Constitution, and its friends should strengthen it in every way that they can rightfully, and they can rightfully strengthen it by simply bringing into nomination candidates for these two high and important offices. Men will go to the polls unquestionably, by the thousand, to vote for the candidates for office if they are to be chosen, that perhaps would not take the trouble to go if they were not to be elected.

I believe the friends of this Constitution have a great responsibility upon their shoulders. I believe that their labor will not be done when we shall have adjourned *sine die* and submitted this Constitution to a vote of the people. I believe that we shall have a battle to fight inch by inch in this Commonwealth, and we ought to strengthen our hands in every way that we possibly can.

Why, sir, the Secretary of Internal Affairs is the most important by all odds of any officer in the Commonwealth, more important by all means than the Governor, an officer one of whose proper duties it will be to protect the people of this Commonwealth; and the people of this State will be anxious to vote for that officer. I say they will be anxious to vote for him, and we ought not to withhold from them the right to vote for him one moment longer than we are compelled to do so. Therefore it is that this amendment offered by the delegate from York should be adopted. If it is not in the right shape in regard to the time when the terms shall commence and terminate, that is a matter which can be very easily arranged; but the principle is right. It has been said that the people will vote this down, but why should we be held back by that? It is a bugaboo to scare delegates at this time. There is nothing in it at all. We have just as good a right to-day to provide for the election of these officers as we have to arrange for any business whatever, and I hope the Convention will adopt the amendment of the delegate from York.

Mr. ALRICKS. I do not think we lose anything by ventilating this subject. For my part, I do not see the propriety of the amendment. I think the case has

been very well presented by the delegate from Bucks (Mr. Lear.) We ought to do one thing at a time, and it will be enough to elect these officers after the people have said that there shall be such officers to elect. It is said that this Convention is composed of one hundred lawyers. We would suppose that it is composed of one hundred prophets. Nearly every gentleman who undertakes to address this Convention undertakes to prophecy that we shall not have our work adopted. I believe that all that will be necessary for us to do will be for us to establish proper reforms. I have the utmost confidence in the people, and I am persuaded that if our Constitution contains proper reforms it will be adopted by the people. I do not understand the reasoning of the gentleman from Potter, (Mr. Mann,) nor the reasoning of the gentleman from Allegheny, (Mr. Howard,) who tell us that we must have candidates before the people in order that the people may be brought to the polls for the purpose of voting. If that reasoning is correct, Mr. Chairman, then should we not enlarge this proposition? We should elect also the seventeen more Senators. We say that there shall be fifty Senators, and we should also elect one hundred more representatives, for then these one hundred additional representatives and their friends and the seventeen additional Senators and their friends would bring out more people to the polls. If these gentlemen want us to fill up the measure of inducement to bring out the people to the polls, let them enlarge their proposition. I apprehend, however, that all we have to do is to do our work right, and then it will be approved by the people, and after the people have said that there shall be such officers as Lieutenant Governor and Secretary of Internal Affairs, then it will be time enough to elect them.

Mr. BEEBE. Having submitted as a resolution the proposition of which this is the substance, I believe it is right for me now to give my reasons why I did so. I have no doubt of the power of this Convention to finish this Constitution and to carry it before the people. I have none of the doubts expressed by our friend from Bucks, of the power in this Constitution to fix the time for its submission, and I have no less doubts of the power of this Convention to fix a time for the election of any man provided for in the instrument itself.

It is not, as the delegate from Dauphin said, to spring a trick upon the people that this amendment was proposed. It was not, as the delegate said, to suggest a particular expedient to get the sanction of the people to this Constitution. On the contrary, I have every faith in the people and in every friend of this constitutional reform, who fully and honestly desires the reforms for which this Convention assembled; but at an early date we at least discovered this fact, that if our work is to be appreciated and approved, it could only be by getting the express will of the people fully, largely, fairly and clearly. I admit that I offered this proposition to be referred to the Committee on Schedule with the intention of eliciting from the people just such an expression of their opinion.

It is not the people that cavil at our action at all. And it is not the people that are disposed for any reason to endeavor to prevent the ratifying of this Constitution. We have simply to go to work and to submit to them in the different sections of our Constitution the reforms that they desire in order to secure their co-operation. Those who intend to have our instrument defeated, if possible, are those who will work secretly, and who will work quietly in the different section and localities of the State, affected by different interests and having different views upon the same matter, where they can array the same elements in different counties against our Constitution. If this amendment, however, be adopted, it will bring both parties into the field to make a nomination. I desire to say that I have thought about this subject a great deal, and I believe that if we bring out both parties, throughout the State, to express their views upon this matter, I do not suppose that either party would submit a proposition to vote down this Constitution as a whole as a declaration of the principles under which they would conduct their canvass. On the contrary, I believe it would result in an explicit declaration of both parties in its favor.

Again, the first proposition is that if these reforms are needed we should have them as soon as we can get them; that we should have this Constitution in operation; that we should have the benefit of it if it is beneficial; if it is not beneficial, then let us not have it at all. Now, sir, with this and with the additional view of preventing a flood of special legislation I think it proper that this Constitution

should be submitted at as earlier a day as possible, and that this election as an expression of the public sentiment of the State of both parties should be held for the purpose.

Mr. M'MURRAY. Mr. President: With very few exceptions I have contented myself with voting "yea" or "nay" on every proposition in this Convention; but I desire now very briefly to give one or two reasons why I shall vote for the proposition now before us. I am convinced that three-fourths of all the voters of the State are in favor of the adoption of the Constitution we have made. In my mind the only danger lies in the fact that there may be a very light vote. In listening to this discussion I think the proposition has affected my mind as it will the minds of most of the people of the State. Nearly all of them take it for granted that the Constitution will be adopted, and from this fact, in connection with the fact that the election will be held in the winter, when it is difficult to get to the polls, men will stay at home, believing that the Constitution is safe. Each man will say to himself: "Well, there is no need for me to go to the election; the Constitution will be carried anyway." That will be the result in the rural districts. But in the cities and large towns it will be somewhat different. In this city and in many other places there is the influence of large corporations, and they will bring that influence to bear to bring out a large vote, and much of that vote will be polled against the Constitution or against certain parts of it. But if we say to the people: "At the same time that you vote for or against this Constitution you may vote for officers to serve under it," what will be the effect? Those men will say: "I am in favor of the Constitution, and believe it will be adopted, but there are certain officers to be elected under it, and I have a preference as to who shall fill those offices." One man will say: "I want Mr. A to be Lieutenant Governor under this Constitution;" another will say: "I want Mr. B to be Lieutenant Governor under this Constitution." That fact will bring those men to the polls, and by the force of the vote thus brought out the Constitution will be carried as a matter of course.

And here is another thought: When candidates are named for these offices men will have a preference. They will be very anxious that men of their choice shall hold the office, and that fact will induce

them to go to the polls, and once there they will cast their votes for the Constitution, because if they want Mr. A to be Lieutenant Governor it will influence their vote for the Constitution that Mr. A may hold that position, because if the Constitution is not adopted he cannot hold the office. These considerations will have an influence on the minds of the people; they will bring out the vote and that will carry the Constitution through.

Mr. Chairman, if I were going on to make a guess, I would say that the man in this Convention who is really opposed to the Constitution, and who would put himself to the trouble of going before his neighbors to oppose it, is the very man to get up here now and say that this is a very bad proposition, and one that ought not to be adopted.

Mr. J. N. PURVIANCE. I am opposed to the proposition of the gentleman from York, for one particular reason that I think, perhaps, will have effect on this Convention. All officers that are to be elected under the new Constitution are required to procure their nominations fairly; they are to use no money or anything of that sort by which they are to procure their nominations; and that proposition has met with almost unanimous favor in this Convention. Now, we propose as the very first act under the Constitution to nominate under the old system by which the politicians of the State would place in power either Republican or Democratic nominees under the old system of free passes, money and other improper influences, and all the other appliances that are usually brought to bear in the nomination of candidates for office.

Now, who are the officers that we are to elect? One of the most important offices in the State of Pennsylvania is that of Secretary of Internal Affairs, an office more important to the interests of the people of the Commonwealth than that of the Governor of the State. He is to have to some extent the control of all the railroads of the State; and yet the gentleman from York and the gentleman from Allegheny are willing to turn them over to the judgment and integrity of an officer nominated and elected under the old political system of our State. Then the Lieutenant Governor is a new office in Pennsylvania. That officer is an officer of great importance. He is to take his seat in the Senate of Pennsylvania not elected by the Senators, but independent of them, and exercising and acting as an

independent officer; he appoints all the committees of that body, and shapes the legislation of the State in view of and under the new Constitution, and yet he is to go in under the old Constitution by the politicians of the State nominating and electing him in the usual way, and to hold the office for four years.

Now, Mr. President, I believe that we should first lay the foundation before we build anything upon it. The Constitution itself is the foundation. Let us first submit that purely and simply to a vote of the people on the question of its adoption or rejection. If the people affirm it or if the people approve it and adopt it, then it will be time enough to elect the new officers created by the instrument itself. I should scarcely be able to give any one a reason when I shall return to my home and he shall ask, "how is it, we are going to vote on this new Constitution and at the same time it appears that we are going to vote for a Lieutenant Governor and a Secretary of Internal Affairs, two officers never heard of before and created by the very instrument we are going to vote upon." I should have to answer him as best I could, and I am sure it would be a very lame and a very unsatisfactory answer that I should give. Let us first adopt the Constitution and then we can elect these officers to administer it, but not at the same time vote on the Constitution and also on the officers to be elected under it. The question of approval unencumbered by any other should be submitted to the people, and I therefore hope the motion to elect officers at the same time will not prevail.

Mr. COCHRAN. Mr. Chairman: I do not know whether I have a right to address the committee again for a few minutes on this subject or not, but if they will permit me I will just say a few words more.

It will appear evident to gentlemen here this evening, now, from what has been said, that I deserved no merit for originality in the conception of this measure. I have only considered and acted upon the suggestions of others, at least of one other gentleman who brought it into the Convention at first and at whose instance it was referred to a committee. And the more I considered it the more I believed that what is proposed in this amendment would be proper and advisable and a judicious thing for us to do.

Now, sir, all the facts show you conclusively that when you submit to the people a single abstract proposition like the

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adoption or rejection of a Constitution you cannot excite sufficient interest in it to bring out the vote. Now look at it. In 1838, at that exciting election, there were 250,000 votes polled for Governor and at the same election, on the same day, only 225,000 votes polled on the question of adopting or rejecting the amendments to the Constitution. I just give them in round thousands, without going into the hundreds. Such is the peculiar turn of the popular mind on these questions, and gentlemen may as well accept facts and take them in opposition to theories. There is an objection raised against this that it would bring the politicians into competition with this Constitution. Why, sir, I do not care either to denounce or to applaud those who are here talked of as politicians. I have been something of one, a very small one I admit, myself in the years that are past; but, sir, suppose the politicians do take an interest in this question, in bringing out the people to vote for these candidates that are to be presented, will that affect the popular sentiment on the Constitution itself? It did not in 1838. In 1838 there was a majority in the county of York, in which I reside, of about nine hundred for Governor Porter and at the same time there was a majority of more than 4,000 against the amendments to the Constitution. The vote on the Constitution was not affected in the slightest degree by the feeling of political parties. The people voted on that as they believed to be right and the interference of politicians in this matter will do no harm whatever if you bring in nominations for officers to be voted for at the same time.

There is no trick designed in this matter. The gentleman from Dauphin at least did me the justice to exonerate me from the idea that I intended it as a trick; but there is no trick in the thing; it is based upon the facts which we have had before us in past years. It is a simple proposition to the gentlemen composing this body to take such measures as will conduce to the bringing out of a full, square, honest, fair vote of the people on the adoption or rejection of this Constitution.

Now, sir, if there is a gentleman in this Convention who is entirely opposed to the adoption of this Constitution, and who is determined to stump his county against it, I can easily conceive why that gentleman should oppose an amendment like this; but if the members of this Con-

vention, or any member of it, is in favor of the adoption of this Constitution and desires to see it go into operation, then he will seek the means by which he may reasonably expect to obtain the popular approbation and support for the instrument, and I can conceive of none, in a practical point of view, which is more proper than the one which I have presented to this Convention. I hope, therefore, that the matter will be considered without prejudice, will be considered on the facts of the case as they stand and on the experience which we have had in this State on similar questions, and that we shall not permit this instrument to encounter the danger of a defeat simply because a very small vote is polled at the election. I think the remarks of the gentleman from Jefferson were exceedingly opposite on that point, and must have commended themselves to the judgment of the members of this body. I can say that I do not know that any gentleman in this body knew that I was going to offer this amendment at this time. I offered it in obedience to the dictates of my own judgment, and I am glad to see that it has met so favorable a consideration at the hands of many gentlemen of this body.

Now, sir, I propose simply to modify it by making the figures "1874" read "1875," so that the terms of these officers will commence in January, 1875, and that will accommodate it to the previous arrangements of this schedule. If they should be altered afterwards, then this can be altered to suit them.

The CHAIRMAN. The question is on the substitute of the gentleman from York.

Mr. D. W. PATTERSON. I merely rise on this occasion not to speak on the merits of this proposition particularly, but to say that I am very much astonished at this Convention. Indeed I entertain other sentiments in regard to their action on this matter which, if it was parliamentary, I would express, but not being exactly parliamentary, I refrain from doing so.

Gentlemen insist on putting the new Constitution and all its machinery into sudden operation. They tell us it must go into operation next year; it is indispensable, as if the Commonwealth was perishing and without law and without protection; and they are so anxious to do that that they propose to elect State officers under this Constitution before it is adopted or ratified by the people. The proposition is that a Lieutenant Governor

be elected this fall to serve for four years from the first Monday of January, 1875. The amendment as originally offered provided that he should serve for four years from the first Monday of January, 1874. That would make his term end in 1878. The amendment as now modified will make his term end in 1879.

Now, I desire to ask the mover of this amendment and the gentlemen of this Convention what they are going to do with the fourth section of the article on the "executive," which reads thus:

"A Lieutenant Governor shall be chosen in the same manner as the Governor and at the same time, and for the same term and subject to the same provisions. He shall be president of the Senate, but shall have no vote unless they be equally divided." Mr. Chairman, how do gentlemen propose to regard this section under the amendment proposed?

Under this amendment I want to know when and by what machinery other than extending the present Governor's term about three years, which would certainly be improper; gentlemen are going to make the election of Governor and Lieutenant Governor come at the same time under that fourth section. If this Constitution is adopted, can your Governor be elected under it for three years from 1875, so that his term shall expire in 1878, that both he and the Lieutenant Governor can be elected? Do gentlemen propose by this schedule to run away into 1875 to elect the Executive under it in the face of this fourth section? How do they propose to make them consist and operate together?

Gentlemen are very eager to do this, and what more? They assume to be the friends of the new Constitution entirely, and they say that any delegate on this floor who opposes such a proposition is to be marked as no friend of the new Constitution.

Mr. COCHRAN. I rise to explain. I certainly did not say what the gentleman from Lancaster says, nor did I mean it, I did not mean that all the gentlemen who oppose this proposition are enemies to the new Constitution.

Mr. D. W. PATTERSON. I am glad the gentleman withdraws the remarks.

Mr. COCHRAN. I did not say it.

Mr. D. W. PATTERSON. But, Mr. Chairman, I will venture to be a prophet for a moment, and I predict that every gentleman who has been heard on this floor or elsewhere to pronounce himself against

the Constitution will support this amendment. I must say for my part that since the vote this morning fixing the first Legislature under this new Constitution to commence on the first Monday of January, 1874, which is equivalent to fixing a special election for the people to vote on this Constitution, I have no hope, no ground for hoping, that any article of it will be ratified by the people, although I can say honestly and candidly that I would pray, and desire, that a very large portion of this Constitution would be ratified and adopted by the voters of the Commonwealth.

What more have gentlemen done? While they wish to see this Constitution adopted, they ratified an amendment this morning by a vote of this Convention which cuts down the term of twenty-two Senators in the existing Senate, thus challenging them and their opposition against this new Constitution. It will have the effect of inclining and arousing, and justly too, the opposition of all those Senators in their respective districts against the ratification of this Constitution. And yet the professed friends of the new Constitution so voted this morning, in the face of that amendment operating naturally, as I have just stated, against its ratification.

What more have these gentlemen done? They want the two hundred members of the lower House to be elected in 1874, and where do they propose to seat them when they are elected to perform the duties of legislators? It may be said with some degree of truth that the present Senate Chamber is large enough probably for fifty Senators; but no man on this floor, I think, will pretend to say that the present chamber for the lower branch of the Legislature is sufficiently capacious to accommodate two hundred members. And yet this preparation of the chamber is to be done in a short summer vacation.

Why, Mr. Chairman, I am astonished that gentlemen should get up here and make propositions of this kind, and hope at the same time to see this Constitution ratified. Would it not be much better, as proposed in this schedule, to let the House remain as it is in 1874 and 1875, to prepare for the new machinery, to fix the districts for the Senate, to fix all for the lower House, and then have the whole new machinery go into operation on the first of January, 1877—the election for all to be held at the general election prece-

ding in November of 1876, and have the Governor and Lieutenant Governor to be elected according to the provisions of the executive article, which we have already engrossed, passed to third reading, and is now a part of the Constitution. Gentlemen who say that we must immediately put this new Constitution in operation it appears to me talk without any consideration of the subject. I hope, sir, that neither this amendment nor any proposition like it will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from York (Mr. Cochran.)

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

The CHAIRMAN. The amendment of the gentleman from Dauphin (Mr. MacVeagh) is now in order. It will be read.

The CLERK. The amendment is to strike out "1876" and insert "1874," and also to strike out the words "Governor and;" so that the section will read:

"At the general election in 1874, a Lieutenant Governor shall be elected according to the provisions of this Constitution."

Mr. HANNA. I move to amend the amendment by striking out "1874" and inserting "1875." I make this motion because we have provided that the Governor shall be elected in 1875.

Mr. NILES. And elect him for three years.

Mr. HANNA. In connection with that I desire to say that the subject was carefully considered by the Committee on Schedule, and we were met when this proposition was made by the fact that in the article on the executive we provide that "a Lieutenant Governor shall be chosen in the same manner as the Governor, and at the same time, and for the same term, and subject to the same provisions." The question was raised in committee whether under this schedule we could provide any different from that which the Constitution itself provided. Now, we find in the Constitution a distinct proposition, a positive command that the Lieutenant Governor shall be elected at the same time and in the same manner as the Governor is elected. If that be the case, how can we provide that which is inconsistent with it in the schedule? If we provide that the Governor of the State shall be elected in 1875, which I understand we have done, I submit that we are bound to say, in accordance with

the article on the executive, that the Lieutenant Governor shall be elected at the same time, and that we have no authority and no power to say that a Lieutenant Governor shall be elected in 1874. Why? Because the Governor is not elected at that time. I think it is a subject of consideration. I do not understand, without some further information on the subject, how we can say that the Lieutenant Governor shall be elected in 1874. A gentleman near by remarks that this is only a temporary matter. I do not understand how that can be, because the purpose of the schedule is entirely different from that. It is a part of the Constitution, and it must be built upon the Constitution and as I have just remarked, unless I can be convinced that we have power to amend the positive terms of the Constitution by the schedule, I cannot agree with the section as proposed.

The CHAIRMAN. The question is on the amendment to the amendment, offered by the gentleman from the city (Mr. Hanna.)

The amendment to the amendment was rejected.

The CHAIRMAN. The question recurs on the amendment of the gentleman from Dauphin (Mr. MacVeagh.)

The amendment was agreed to.

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

The section was agreed to.

The CLERK read the next section as follows:

SECTION 12. The Secretary of Internal Affairs shall be elected at the first general election after the adoption of this Constitution, and when the said officer is duly elected and qualified, the office of Surveyor General shall be abolished, and the Surveyor General in office at the time of the adoption of this Constitution shall continue in office until his said present office shall be abolished, and no longer.

The section was agreed to.

The CHAIRMAN. Section thirteen will be read.

The CLERK read as follows:

SECTION 13. Whenever the Superintendent of Public Instruction shall be duly qualified, then the office of superintendent of common schools shall cease and terminate.

The section was adopted.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 14. Nothing contained in this Constitution shall be construed to render the Auditor General now in office ineligible for election to the same at the end of his present term.

Mr. BUCKALEW. I do not suppose the Convention intends to adopt such a very remarkable section. There might be some propriety in a general provision that a person now holding office shall be subjected to the limitations regarding his ineligibility which are contained in this Constitution. In regard to that, there might be a provision made; but to select out this particular officer whose full term will have expired before his successor shall be chosen is most invidious and uncalled for. I do not understand why it should have been reported in this form. Unquestionably this would be exceedingly odious to the people of the Commonwealth and it should be done away with.

Mr. D. W. PATTERSON. I move to amend the section by inserting after the word "the" where it first occurs, the words "present Governor." This will make the section read:

"Nothing contained in this Constitution shall be construed to render the present Governor and Auditor General ineligible for election to the same at the end of his present term."

That leaves out also the words "now in office."

Mr. NEWLIN. That covers the case.

Mr. HARRY WHITE. I agree entirely with the gentleman from Columbia in what he has said about this section. I think it would be very wise to vote the whole section down, but for the purpose of testing the sense of the Convention upon this subject, I will move a further amendment. I would so modify the section that it would read:

"Nothing contained in this Constitution shall be construed to render any person now in office ineligible for election to the same at the end of his present term."

Mr. NEWLIN. That is better. I hope the gentleman from Lancaster will accept that.

Mr. D. W. PATTERSON. I accept that.

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

On the question of agreeing to the section as amended a division was called for, which resulted thirty-eight in the affirmative and twelve in the negative.

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The CHAIRMAN. The section as amended is agreed to.

Mr. CURTIN. There is not a quorum voting.

The CHAIRMAN. In committee of the whole we cannot take notice of a vote being less than a quorum. There is apparently a quorum here, but the Chair cannot compel them to vote.

Mr. CURTIN. I was under the impression that if the fact that no quorum voted was called to the notice of the Chair, the Chair would direct the committee of the whole to rise.

The CHAIRMAN. That is not the understanding of the Chair.

Mr. CUYLER. I understand that when less than a quorum vote in committee of the whole, it is the duty of the chairman to direct the committee to rise and report that fact to the House.

The CHAIRMAN. The Chair does not understand it so. There were thirty-eight voting in the affirmative and twelve in the negative.

Mr. CUYLER. That was not a quorum, and the precedent established in this Convention hitherto has been that upon the fact being that no quorum voted, the committee rose and reported to the House.

The CHAIRMAN. The Chair is of opinion that from the appearance of the House there is unquestionably a quorum here, and the Chair will not take notice of any other matter in committee of the whole. The section as amended is before the committee,

The section as amended was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 15. The judges of the Supreme Court who shall be in office when this Constitution shall take effect, shall continue until their commissions shall severally expire. Two judges in addition to the number now composing the said court shall be elected at the first general election after the adoption of this Constitution, whose term of office shall begin on the first Monday of January next succeeding their election.

Mr. BUCKALEW. I desire to call the attention of the chairman of the Committee on the Judiciary to the question of the judicial term. We ought to have a general provision that all judges learned in the law shall have their terms commence at some fixed date after their election. Otherwise we shall have to have this pro-

vision in regard to those judges who are elected to the Supreme Court, another provision generally in regard to the Supreme Court possibly, and still another with regard to the common pleas court. I hope the gentleman from Lycoming will give us a single section embracing all that is necessary on these points.

Mr. ARMSTRONG. By the latter clause of this section it is provided that the term of office shall begin on the first Monday of January. It will be borne in mind that all judicial commissions now expire on the first Monday of December, so that there will be one month in which there would be no judge. In view of that, at the end of the word "commission," in the twentieth section, in the fourth line, I propose to move to insert the words "or until their successors shall be duly elected and qualified," which would be for the purpose of bridging over the time which would intervene between the ending of the old term and the beginning of the new term under this provision.

Mr. BUCKALEW. In regard to this section, the language is that the terms of the two new judges to be elected shall begin on the first Monday in January next succeeding their election. I call the attention of the gentleman to this, in order that he may prepare a single section in regard to all the judges. I would suggest that we strike out the last clause and then have a general section introduced afterward.

Mr. ARMSTRONG. That will do, I think. We can add:

"And the term of all judges learned in the law shall begin on the first Monday in January."

Mr. D. W. PATTERSON. There ought to be a new section drawn up.

Mr. ARMSTRONG. If this is stricken out, I will draw up a new section.

Mr. HANNA. I would like to remind the gentleman that section twenty-six of the article on the judiciary says:

"Any resignation happening by death, resignation or otherwise, in any court of record, shall be filled by the Governor, to continue until the first Monday of January next succeeding the first general election."

Mr. ARMSTRONG. That is only for vacancies. I would call the attention of gentlemen to the fact that there is now a motion to reconsider the judiciary article pending, made by the gentleman from Perry, (Mr. Joseph Bally,) and if that

motion shall prevail, it is quite impossible to say what modifications will be made in that article. I would suggest that it would be hardly worth while to proceed to the consideration of the article on schedule with reference to the judicial system until it is known whether or not the judiciary article itself is to be modified and to what extent.

The CHAIRMAN. Section fifteen is before the committee.

Mr. ARMSTRONG. Then I move to strike out all after the word "Constitution" in this section with a view to the preparation of a section which will relieve us of the difficulty suggested by the gentleman from Columbia.

Mr. D. W. PATTERSON. I would ask the gentleman from Lycoming why, as this is a special election for two additional judges and we have all agreed that these officers shall commence on the day named, we should not provide in relation to them as we have done in this section? It would not interfere with any special provision.

Mr. ARMSTRONG. That is so, but the whole matter may be very easily embraced in one general provision, and there is no necessity for duplicating the subject in the schedule. That is the only reason for striking out this part of the section and inserting a general provision which will embrace all that can be included.

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

The amendment was agreed to.

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

The section as amended was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 16. All courts of record and all existing courts which are not in this Constitution specifically enumerated, and not inconsistent therewith, shall continue in existence and exercise their present jurisdiction, until otherwise provided by law.

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

"Except the court of first criminal jurisdiction for the" counties "of Schuylkill, Lebanon and Dauphin, which is hereby abolished."

When the judiciary article was under consideration in the body of the Conven-

tion upon second reading, I proposed specifically to include this court in that article, naming it as being abolished. I was then met with the remark, from several quarters of the House, that the schedule would be the proper place to make that provision. I find the schedule, as it stands here before us, applies to this existing court which would be continued under the twenty-eighth section of the article on the judiciary as adopted. I therefore move now to specifically except that court from the saving clause of this schedule, and I wish to say in explanation of my amendment that it is my desire if this amendment be adopted to have the judge who is now the judge of that criminal court, when we come to section twenty, where it says that judges learned in the law, &c., shall hold their commissions, &c., transferred to a new field. I intend to offer an amendment providing that the commission of this judge as a judge of the criminal court shall expire with the adoption of this Constitution, and that he shall be commissioned as a judge of the court of common pleas for the county of Schuylkill.

He has sat as a judge of the criminal court in the county of Schuylkill, and the judicial business of that county will furnish him with ample work during the unexpired term of his office. In fact, although he is now judge of the criminal court of Dauphin, Lebanon and Schuylkill, he has not tried a single case outside of the county of Schuylkill. This court was created in a time of high political excitement, when the counties of Dauphin and Lebanon were attached to Schuylkill for the purpose of electing for Schuylkill a particular judge. The judge who sits in that court has nothing to do with the counties of Lebanon and Dauphin, and he is as anxious as I am that this change should be made, and this monstrosity, this excrescence upon our system, done away with, and that he be made a constitutional judge of the court of common pleas in Schuylkill county. My colleague, (Mr. Bannan,) who is here representing different political sentiments from those which I entertain, coincides with me and is equally clear in desiring the amendment which I propose should be adopted. There is no hostility to this amendment in our county nor anywhere in the district, and I desire that we should make this system uniform and make it consistent, and therefore this should be done in the schedule. I desire, also, to

add that my colleague at large, (Mr. Bartholomew,) who is not here to-day, agrees entirely with me upon this subject and desires that the change I have proposed should be made.

Mr. ARMSTRONG. The court referred to by the gentleman from Schuylkill is rather an anomalous court in the State, and is so recognized. So far as I understand the gentleman, I see no objection to his amendment.

Mr. ALRICKS. So far as Dauphin county is concerned, that office has been abolished, and the judge to whom the gentleman from Schuylkill alludes has never tried a case there.

Mr. HARRY WHITE. I have the pleasure of remembering something about the organization of this court to which the gentleman from Schuylkill alludes. I think it was created by an act of Assembly for the purpose of getting a court to try what were known as the Molly Maguires. I was in Harrisburg and in favor of it at that time. Since then I understand that they have been tried, or if they have not been tried they can be, and that it is perfectly satisfactory now to abolish this court, with the understanding that the judge who presides over it is to be made a judge of the court of common pleas, and I understand that the delegate from Schuylkill if this amendment be adopted proposes to offer another amendment to that effect.

Mr. ELLIS. Certainly, I will do that, but I insist upon my present amendment.

Mr. D. W. PATTERSON. With the permission of the House I will state that there is a provision in the judiciary article allowing the Legislature to provide additional judicial force in any common pleas district when it is necessary. This court which my friend wishes to abolish in the fundamental law is not a constitutional court. It was created by an act of Assembly to meet certain necessities. He well knows that before Judge Pershing went to Schuylkill county, murder after murder was committed within that district, and not a solitary man was ever convicted of that crime. Hence the Legislature in its wisdom erected that court, and, Mr. Chairman, from the day that the judge of that court took his seat there has not been a murder in that district. It has met all the necessities of the case since Judge Pershing has gone there.

Mr. ELLIS. I rise to explain. The gentleman from Lancaster knows nothing about what he is speaking of.

The CHAIRMAN. The gentleman from Lancaster will proceed.

Mr. D. W. PATTERSON. Mr. Chairman: I will proceed if he does not interrupt me. The murder ceased from that time up until very recently. I was so informed by a gentleman of the bar in that county, and he ought to know. Now if Judge Pershing, and he is a very able judge, is able to do all the common pleas business, you ought not to put another judge there and subject the Commonwealth to that additional expense. If there is additional judicial force needed in Schuylkill, this Constitution provides for the Legislature giving an additional judge at any time. The same power that created the court to which the gentleman objects can wipe it away, by repealing the law, and whenever the circumstances of that district show that it is necessary the Legislature will do it, so that it is no use and it is not proper to put into this fundamental law anything in regard to that court. I recollect when it was up before the Convention in committee of the whole and on second reading, that the delegate at large, who is not now in his seat, (Mr. Bartholomew,) maintained that for the present that court was desirable; it was acceptable to men of all parties in that county, and when the Legislature has the power, as I stated, why abolish it here suddenly? In the face of the power of the Legislature to act when it is demanded by the population of that district, why should we interfere?

Mr. CURTIN. Mr. Chairman: As I understand the delegate from Lancaster the presence of this judge in Schuylkill county stopped riots and burglaries and murders. It becomes therefore a very serious question to remove a man in such a county whose mere presence stops all crime! This magic and beneficent influence exercised by a single man going into a county presents a very serious question to this Convention, and I should be far from removing a man of such power over the people in a county somewhat given to riots and burglaries and murders; so that in six years not one has occurred, by the mere fact of his personal presence! But inasmuch as the delegate from Schuylkill county proposes to suffer this remarkable man to remain there, this curer of crime, this preventor of evil, this walking terror to evil-doers, I think we had better accept his proposition and keep him there, because if they enforce this act of Assembly making it an ambulatory

court, they may take him sometimes into Lebanon and Dauphin, and Schuylkill may run riot when the light is removed from their presence. [Laughter.]

Mr. GIBSON. Mr. Chairman: I would like, at this stage of our proceedings, to make a suggestion. I think that the consideration of the schedule, in regard to the judiciary, is rather premature. I do not think there is any article on the judiciary that has been adopted by this Convention. An article did pass on third reading, but it is now pending on a motion to reconsider, on the motion of the gentleman from Perry (Mr. Joseph Baily.)

SEVERAL DELEGATES. It has not been reconsidered.

Mr. GIBSON. The motion is pending, and we do not know what alteration may be made in the article.

Mr. BANNAN. Mr. Chairman: The gentleman from Lancaster (Mr. D. W. Patterson) misunderstands the application of this amendment offered by my colleague (Mr. Ellis.) It is proposed only to abolish the criminal court and to recommit Judge Green as a common pleas judge. He will then have the same powers in the quarter sessions as he has now, only in conjunction with the other two judges, Judge Pershing and Judge Walker. We need all three of the judges in our county. We are four years behind hand in the trial of our cases, and have been so for the period of ten years. There is therefore no objection to having this court abolished. It is an anomaly, a strange proceeding on the part of the Legislature, as far as the court itself is concerned, and we now propose to have a court constituted as it used to be, of three common pleas judges, having full power in the quarter sessions.

The CHAIRMAN. The question is on the amendment of the delegate from Schuylkill (Mr. Ellis.)

The amendment was agreed to.

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

The section as amended was agreed to.

The CLERK read the next section, as follows:

SECTION 17. The registers' courts now in existence shall be abolished on the first day of January next succeeding the adoption of this Constitution.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 18. The Legislature shall, at the next session after the adoption of this Constitution, designate the several judicial districts provided for under this Constitution, and the number of judges learned in the law who shall be at the then succeeding general election elected in such several districts, and the judges at present in commission shall continue during their unexpired terms judges of the new districts in which they reside.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 19. The Legislature shall at the next succeeding session after each decennial census, and not oftener, designate the several judicial districts provided for under this Constitution.

Mr. HARRY WHITE. I trust this section will not prevail. I think it is entirely unnecessary. We have just made a provision which, of course, is absolutely necessary, under the features of the article on the judiciary, but I think it entirely unnecessary to fix the time when the apportionment, so to speak, of the State into judicial districts shall be made. It is an anomaly in the Constitution. I apprehend we should leave that matter to be dealt with by the Legislature as the necessities of the times may demand. If we put this hard rule in the Constitution, we may do great injustice to many counties whose population will increase very rapidly, whose business will actually require some assistance, and consequently the hands of the Legislature will be tied. It is not necessary at all and I hope it will not be adopted.

Mr. D. W. PATTERSON. I wish to ask the gentleman how he proposes to fill up vacancies under the existing judiciary article every year. How are they to get the census and to ascertain whether there are forty thousand people in a county? The committee considered that and were spoken to by some twenty members of this Convention to require under this Constitution the Legislature at its next meeting to fix any new districts which had the requisite population of forty thousand, but not every year, not after that till the next census. Certainly we do not want to have the people going to the Legislature every winter and saying: "Let us provide for a special census in this county or that county to see if there are not a sufficient number of population for a judge." We have too much increase of judicial force under this Consti-

tion and we ought to confine it to the decennial term after the census is ascertained by the United States. That was the object in putting this in. Therefore no district will suffer which has forty thousand.

Mr. CALVIN. Will the gentleman allow me to ask him a question? Does not the judiciary article already provide that those counties which have forty thousand population according to the census of the United States, shall be entitled to a judge?

Mr. D. W. PATTERSON. Yes, sir.

Mr. CALVIN. Therefore it cannot occur oftener than every ten years.

Mr. D. W. PATTERSON. We permit the Legislature at its next session to fill up those districts that have the necessary population, but not again until after the census of 1880; that is what we design.

Mr. ARMSTRONG. Mr. Chairman: If gentlemen will turn to the thirty-second section of the judiciary article as it passed they will find that the language is very full and unlimited:

"Whenever a county shall contain forty thousand inhabitants, it shall constitute a separate judicial district, and shall elect one judge learned in the law; and the Legislature shall provide for additional judges as the business of the said districts may require.

If this Constitutional right is not limited by some other section it will be a right which the Legislature never could decline to enforce, and they would be compelled on the showing of sufficient population to grant any county a separate district, which would keep the judicial districts of the State in perpetual agitation.

I need not repeat again in this presence that I distrusted exceedingly the policy and wisdom of inserting that section at all in the Constitution. I do not think that population is a sound basis on which to base judicial districts; but it has been done, and for the purpose of limiting the evil effects which might grow out of the necessity of readjustment as successive counties may reach the required population, I think this section is wise. It prevents the changes of the districts more than once in ten years, which I think is eminently proper.

The CHAIRMAN. The question is on the section.

Mr. HARRY WHITE. I wish to offer an amendment. I move to strike out the word "decennial," in the first line. The reason for that is given by the language

of the section read by the delegate from Lycoming. I am still opposed to the section, but if the section should be adopted I am in favor of striking out the word "decennial" because the necessity for exercising this function by the Legislature is merely ministerial, merely to ascertain whether a county has the requisite population or not, and they *ipso facto* become a judicial district as soon as the population is ascertained. The United States census of course is taken every ten years. It may be possible that the census of the United States would be taken oftener hereafter, and I am willing to substitute the words "after each United States census" in place of "each decennial census." I therefore move, if the section is to prevail, to strike out "decennial" and insert "United States."

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

The amendment was rejected.

The CHAIRMAN. The question recurs on the section.

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

The CLERK read the next section as follows:

SECTION 20. Judges learned in the law of any court of record in this Commonwealth holding commissions in force at the adoption of this Constitution, shall hold their respective offices until the expiration of the terms for which they were elected and commissioned. The office of associate judge, not learned in the law, is abolished, excepting in counties not forming separate districts, but all such associate judges in office when this Constitution shall be adopted shall serve for their unexpired terms.

Mr. ARMSTRONG. I move to amend by adding after the word "commissioned" in the fourth line the words "and until their successors are duly elected and qualified." This is to supply the omission which I explained a moment ago. The terms of the present judges expire on the first of December, and we provide in this Constitution that the commissions of the new judges shall take effect on the first of January. This is to bridge over the month.

The amendment was agreed to.

Mr. ELLIS. I offer the following amendment to come in after the amendment just adopted; "except the president

judge of the first court of criminal jurisdiction for the counties of Schuylkill, Lebanon and Dauphin, whose office as judge of said court shall expire at the time of the adoption of this Constitution, but the Governor shall commission the said judges as a judge of the court of common pleas of Schuylkill county for the unexpired term of his office as judge of said criminal court."

The amendment was agreed to.

Mr. EWING. If I mistake not—

Mr. ARMSTRONG. If the gentleman will give way for a moment for an explanation, the clause in the latter part of this twentieth section which provides that "the office of associate judge not learned in the law is abolished," &c., was originally inverted in nearly the same language at the end of the thirty-second section of the judiciary article, and as I understand it, it was stricken out. If there be any mistake about that, it had better be corrected. I will inquire of the Clerk how that is.

The CLERK. The thirty-second section of the judiciary article reads as follows:

"Whenever a county shall contain forty thousand inhabitants, it shall constitute a separate judicial district, and shall elect one judge learned in the law; and the Legislature shall provide for additional judges, as the business of the said districts may require; counties containing a population less than is sufficient to constitute separate districts, shall be formed into convenient single districts, or, if necessary, may be attached to contiguous districts as the Legislature may provide; the office of associate judge, not learned in the law, is abolished, excepting in counties not forming separate districts; but the several associate judges in office when this Constitution shall be adopted shall serve for their unexpired terms."

Mr. ARMSTRONG: I was under the impression that that latter clause had been stricken out of the article.

The CLERK. It was stricken out and subsequently restored.

Mr. D. W. PATTERSON. It was stricken out with a view to insert it in the schedule.

Mr. ARMSTRONG. Inasmuch as it is now inserted in the schedule, I trust it may be stricken out in the article on the judiciary by common consent.

The CHAIRMAN. The Chair will suggest that that cannot be done now in committee.

Mr. ARMSTRONG. It could not be done in committee, I suppose, but it ought not to be in both places.

Mr. CORBETT. I should like to call the attention of the chairman of the Committee on the Judiciary to another matter. In the article on the judiciary there is nothing said with reference to the term of associate judges, nor is there anything in this schedule. Consequently you must refer to the old Constitution to ascertain their terms of office.

Mr. ARMSTRONG. The gentleman, I believe, is accurate in his statement in that regard, but we provide expressly that unless as herein changed, they shall continue as they are, and I see no especial reason why we should insert it in this Constitution. It is in the law and it is in the old Constitution, and it has been printed several times. There is no difficulty in finding it. I do not know that any amendment is necessary.

The CHAIRMAN. The question is on the adoption of the twentieth section as amended.

Mr. BUCKALEW. With the understanding that the Committee on Revision will strike out a similar clause from the regular article on the judiciary system, I will not ask to have the clause relative to the office of associate judge left out here.

Mr. HARRY WHITE. I submit that the Committee on the Judiciary have not now any jurisdiction of the judiciary article. Every proposition now offered stands on its own basis.

Mr. ARMSTRONG. I move to strike out the words, "as judge of said criminal court," at the end of the amendment inserted on the motion of the gentleman from Schuylkill (Mr. Ellis.) Those words are superfluous and unnecessary.

The amendment was agreed to.

Mr. D. N. WHITE. I move to amend the section by striking out after the word "districts," in the fifth line, the words, "but all such associate judges in office when this Constitution shall be adopted shall serve for their unexpired terms." That is already in the Constitution.

Mr. HARRY WHITE. I move to amend that motion so as to include in the striking out the preceding portion of the sentence: "The office of associate judge not learned in the law is abolished, excepting in counties not forming separate districts." That will strike out all after the word "commissioned" in the fourth line. It is only striking out the identical words which are to be found in the arti-

cle on the judiciary. I trust the chairman of the Committee on the Judiciary will assent to this also.

Mr. ARMSTRONG. As it stands now, I confess I have not a clear idea of just how the section reads or what it does provide. I ask the Clerk to read it as it will stand if the amendment be adopted.

The CLERK. It is proposed to strike out the last sentence in the section in these words:

"The office of associate judge, not learned in the law, is abolished, excepting in counties not forming separate districts, but all such associate judges in office when this Constitution shall be adopted, shall serve for their unexpired terms."

Mr. ARMSTRONG. I suggest the propriety of retaining that clause here and striking it out of the judiciary article by common consent.

The CHAIRMAN. The question is on the amendment to the amendment, proposed by the gentleman from Indiana (Mr. Harry White.)

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

The amendment as amended was agreed to.

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

The section was adopted.

The CLERK read the next section, as follows:

SECTION 21. After the expiration of the term of any president judge of any court of common pleas in this Commonwealth, who is in commission at the adoption of this Constitution, the judge of such courts oldest in commission shall be the president judge thereof, and when two or more judges are elected at the same time in any judicial district, they shall draw lots for the position of president judgeship.

Mr. BIDDLE. I move to amend this section in the last line by striking out the words, "draw lots for the position of president judgeship," and inserting, "decide by lot who shall be president judge."

Mr. EWING. If the gentleman will allow me to make a suggestion, I think I can avoid the difficulty. If the gentleman will look at section seventeen of the article on the judiciary, he will find that the precise matter is provided for there, and the last two lines should not be in this section. It is provided in that sec-

tion how they shall determine priority of commission.

Mr. BIDDLE. My amendment was pointed simply to the language. If it is provided for, of course I have no objection to having it stricken out altogether; but drawing lots does not necessarily decide the question; and besides, the language which I propose to substitute is the language in the existing Constitution in regard to the chief justiceship. I have substituted the precise language, and the number of words is precisely the same as those stricken out. It does not make it longer, and it makes it precise.

Mr. D. W. PATTERSON. I hope the amendment will be adopted.

Mr. ARMSTRONG. If gentlemen will turn to the seventeenth section they will find it expressed thus:

"Should any two or more judges of the Supreme Court, or any two or more judges of the court of common pleas for the same district, be elected at the same time, they shall, as soon after the election as convenient, cast lots for priority of commission and certify the result to the Governor, who shall issue their commissions in accordance therewith."

That seems to cover all that is expressed in the present section.

Mr. BIDDLE. Then I move to strike out lines four and five.

Mr. D. W. PATTERSON. I should like to ask the chairman of the Judiciary Committee whether that decides the president judgeship? That is what we want to determine. Certainly it does not in the seventeenth section.

Mr. ARMSTRONG. But the upper part of the twenty-first section provides that whoever has priority of commission shall be president judge, and the two sections together fix the question of the presidency without a doubt. It will be observed that the twenty-first section reads:

"After the expiration of the term of any president judge of any court of common pleas in this Commonwealth, who was in commission at the adoption of this Constitution, the judge of such court oldest in commission shall be president judge thereof."

Mr. BIDDLE. I will ask the gentleman from Lycoming—I do not quite understand that—whether it is provided in the seventeenth section of the judiciary article who shall be president judge where two judges are elected at the same time in a district. If it does, then we should

strike out these two lines; if it does not, we should retain them.

Mr. D. W. PATTERSON. I do not think it is clear.

Mr. BIDDLE. If it is not clear on that, we had better retain this in the schedule.

Mr. ARMSTRONG. We may retain it for the present and examine it more carefully afterward.

Mr. BIDDLE. Then I move to amend by striking out the words "they shall draw lots for the position of president judgeship," and inserting "they shall decide by lot which shall be president judge." That is the language of the existing Constitution and is precise.

The amendment was agreed to.

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

Mr. J. W. F. WHITE. It seems to me we may strike out some words in the second line and improve it. We can strike out the words "in this Commonwealth, who is." The section would read:

"After the expiration of the term of any president judge of any court of common pleas in commission at the adoption of this Constitution," &c.

I move to amend by striking out these words and inserting after the first word "judge," in the third line, the words "learned in the law," because if this be not added after the word "judge," it would apply to the associate judges, and in the country districts when the term of president judge would expire one of the associate judges, not learned in the law, would be president of the court.

Mr. D. W. PATTERSON. I think that amendment is very good.

The amendment was agreed to.

Mr. J. W. F. WHITE. Perhaps if the chairman of the Committee on Schedule believes the words "learned in the law," would go in more appropriately after the word "courts," and read "judges of the courts learned in the law," that amendment could also be made.

Mr. ARMSTRONG. The word "courts" there should be "court." It ought not to be plural in that connection.

Mr. BIDDLE. It should be singular.

Mr. ARMSTRONG. It is an error in the print and I will ask the Clerk to correct it.

The CHAIRMAN. It will be so corrected.

Mr. J. W. F. WHITE. I move that the section be amended by putting the words "learned in the law" after the word "court."

The amendment was agreed to.
 The CHAIRMAN. The section as amended is before the committee.

Mr. KAINE. Let it be read.

The CLERK read as follows:

"SECTION 21. After the expiration of the term of any president judge of any court of common pleas in commission at the adoption of Constitution, the judge of such court learned in law, oldest in commission shall be the president judge thereof, and when two or more judges are elected at the same time in any judicial district, they shall decide by lot which shall be president judge."

The section as amended was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read it as follows:

"SECTION 22. The General Assembly, at their first session after the adoption of this Constitution, shall fix and determine the compensation of the judges of the Supreme Court, and of the several judicial districts in the Commonwealth, and the provisions of section fifteen of article on legislation shall not be deemed inconsistent herewith."

Mr. HARRY WHITE. I think this section is entirely unnecessary. I apprehend that the Legislature has now the power to fix the compensation of the judges of the Supreme Court and the judges of the several districts, and any provision of this kind is entirely uncalled for. This is intended to reach a section in the legislative article which was adopted after earnest discussion in this body through the different stages, in committee of the whole and all the several readings, and I trust we shall not seek to repeal it by the provisions of this section as we find it before us. That fifteenth section was adopted at the instance of the then very distinguished member of the Convention who has occupied the position of Chief Justice of the Supreme Bench, and it was adopted at his instance, after the relation of an incident. It was stated that the Supreme Court were called upon in the discharge of their judicial duties to once decide a case which happened to be decided against a very prominent member of the Legislature. He was at the succeeding session of the Legislature chairman of the Committee of Ways and Means, and the question came up before the committee of fixing the compensation of the judges of the Supreme Court. His action in the premises gave rise to a very unpleasant discussion

in the House of Representatives, wherein the party whose suit had been decided against him saw fit to exhibit his spleen and mortification against the judges of the Supreme Court, who had simply done their duty, and it was prolific of scandal for a number of years in the Commonwealth. This section in the article on the Legislature was adopted after all these circumstances had been related, and we ought not to destroy it now.

Mr. HANNA. The gentleman from Indiana is right in saying that this section is framed to meet the difficulty suggested by the fifteenth section of the article on legislation, and if the gentleman will reflect a moment he will appreciate the purport of this section. If this Constitution should be approved by the people prior to the first of January next, then the Legislature could not increase the compensation of the judges of the Supreme Court, or the judges of any judicial district in the Commonwealth without this provision of the schedule. The judges must remain as they are now without any increase of compensation. We propose to here provide means whereby the Legislature can, if they think proper, increase the compensation of the judiciary. We have fixed the term of the judges of the Supreme Court at twenty-one years, and unless some provision is made in the schedule, their salary will remain during the whole term as it is now. Again, the judges of the city of Philadelphia and the county of Allegheny, receive a certain salary from the Commonwealth with an additional compensation from their respective counties. Unless we adopt this article, their salary must also necessarily remain during their whole term of office at the sum which is now appropriated by the Commonwealth. We ask that the Legislature may have the opportunity of fixing their salary either at the present rate or at whatever sum they may think proper.

Mr. ARMSTRONG. There is some difficulty about this change which it is incumbent upon the Convention to correct. The fifteenth section of the article on legislation provides that:

"No law shall extend the term of any public officer or increase or diminish his salary or emoluments after his election or appointment."

We also provide that the entire salary shall be paid by the State. Yet in the city of Philadelphia the judges have been

receiving an additional compensation of \$2,000 by appropriation from the city treasury, which is no part of their salary appointed by law, and without it the salary is so entirely insufficient that one of the best judges on that bench, in a letter which I have now in my possession, has stated that it would be absolutely and imperatively a duty which he owed to his family to resign if his salary was to be reduced by the amount of \$2,000, because he would not be able to live in Philadelphia. Yet unless we in some way relieve the stringency of this provision, his salary would be fixed at \$2,000 less than these judges are now receiving.

Again, the salary of the judges of the court of common pleas is now fixed by law at \$2,500 and the salaries of the judges of the Supreme Court are fixed at \$5,000.

Mr. CORBETT. At \$7,000.

Mr. ARMSTRONG. No, sir; if the gentleman will excuse me, I am correct in what I stated. The subsequent increase of salary which the judges of the common pleas and the judges of the Supreme Court have received has been given them in the appropriation bill from year to year, and has simply been an appropriation of so much "for this year." Their salaries stand therefore as fixed by the act of Assembly. The appropriation bill expires in the year. I take it at least it is open to very grave doubt whether, if we so fix this Constitution and the Legislature cannot revise the subject of salaries, we do not fix irrevocably the salaries of the supreme judges at \$5,000 and of the common pleas judges at \$2,500, neither of which they can live upon. If this harsh, severe and stringent provision is to remain that the salaries of judges shall not be increased, then we ought to have a provision here that will relieve the salary from the pressure of the fifteenth section of the article on legislation. In that point of view I think this section is wisely introduced.

Mr. HARRY WHITE. Will the delegate allow me to interrupt him?

Mr. ARMSTRONG. Yes, sir.

Mr. HARRY WHITE. Do I understand the delegate from Lycoming to say that the salary of the common plea judges of the Commonwealth is \$2,500 and that of the judges of the Supreme Court \$5,000?

Mr. ARMSTRONG. I thought I was explicit. I have not been able to find any of the five copies of *Purdon's Digest* which we had here, to verify the state-

ment; but one of the judges stated to me that such was the fact. The Attorney General states that such is the fact, that the salaries of the judges now as fixed by law are \$2,500, possibly \$3,000—my impression is \$2,500 for the common pleas.

SEVERAL DELEGATES. \$4,000.

Mr. ARMSTRONG. No; that is by the appropriation bill. The salary as fixed by the act of Assembly is \$2,500 I believe. As I have before remarked, I may not be accurate as to the amount, but it is very much less than they have been receiving, and I think it is \$2,500; and the salary of the judges of the Supreme Court is \$5,000. The subsequent increase which they have been receiving for several years past has been simply by force of an annual appropriation and that appropriation does not extend the amount of salary beyond the specific year.

Mr. HARRY WHITE. The delegate will pardon me for saying that I had the pleasure of being present at the passage of eleven of these appropriation bills, and when the appropriation bill was passed first increasing the salary of the judges from \$2,500 to \$4,000, it was made specific in the appropriation bill—I think it was the appropriation bill of 1865 or 1866—that the salary hereafter of the said judges of the court of common pleas shall be \$4,000; and when the salaries of the Supreme judges from time to time were increased a provision was added that the chief justice of the Supreme Court should receive \$7,500 and the associated judges \$7,000, and the delegates will understand that it was not to apply merely to the year covered by the appropriation bill, but it was to be their salary, so that it cannot be diminished.

Mr. CURTIN., Mr. Chairman: We cannot settle this matter until we get *Purdon's Digest*, and I therefore move that the committee rise, report progress, and ask leave to sit again.

Mr. ARMSTRONG. I desire in this connection to repeat what has been said on this matter.

The CHAIRMAN. The delegate from Lycoming was addressing the committee, and the Chair cannot entertain any motion to rise until he takes his seat.

Mr. J. N. PURVIANCE. Now if the gentleman from Lycoming will permit me, I will read to him from the Auditor General's report what the judges' salaries are.

Mr. ARMSTRONG. I will yield for the purpose.

CONSTITUTIONAL CONVENTION.

Mr. J. N. PURVIANCE. "Judges of the Supreme Court, for salary, \$35,000," or \$7,000 each.

Mr. ARMSTRONG. The Attorney General called my attention to it specifically, and stated such to be the present condition of the law, and that the salaries of the judges which they are now receiving are by specific appropriation from year to year, and not by virtue of any fixed law which proceeds from year to year.

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

The motion was agreed to, and the committee rose.

The President having resumed the chair, the Chairman (Mr. Cassidy) reported that the committee of the whole had had under consideration the article on schedule, and had directed him to report progress and ask leave to sit again.

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

Mr. CUYLER. I move that the House adjourn.

The motion was agreed to, and (at nine o'clock and forty-six minutes P. M.) the Convention adjourned until to-morrow at half-past nine o'clock A. M.

ONE HUNDRED AND SEVENTY-FOURTH DAY.

TUESDAY, October 28, 1878.

The Convention met at half-past nine o'clock A. M., Hon. John H. Walker, President, in the Chair.

PRAYER.

Rev. Pierce Maher, of Norristown, offered the following prayer:

In the name of the Father, the Son and the Holy Ghost!

We pray Thee, oh Almighty and Eternal God, who through Jesus Christ hast revealed Thy glory to all nations, to preserve the works of Thy mercy, that Thy church being spread throughout the whole world, its members may continue with unchanging faith in the confession of Thy name.

We pray Thee, oh God of might, wisdom and justice, through whom authority is rightly administered, laws are enacted and judgment decreed, assist with Thy holy spirit of counsel and fortitude the President of these United States that his administration may be conducted in righteousness and be eminently useful to Thy people, over whom he presides, by encouraging due respect for virtue and religion and by a faithful execution of the laws in justice and mercy, and by restraining vice and immorality. Let the light of Thy divine wisdom direct the deliberations of Congress, and shine forth in all their proceedings and laws framed for our rule and government; so that they may tend to their preservation of peace, the promotion of national happiness, the increase of industry, sobriety and useful knowledge, and may perpetuate to us the blessings of equal liberty.

We pray for his excellency, the Governor of this State, for the members of this Convention, for all judges, magistrates and other officers who are appointed to guard our political welfare, that they may be enabled by Thy powerful protection to discharge the duties of their respective stations with honesty and ability.

We recommend likewise to Thy unbounded mercy all our brethren and fellow-citizens throughout the United States, that they may be blessed in the know-

ledge and sanctified in the observance of Thy most holy law, that they may be preserved in Union, and in that peace which the world cannot give, and after enjoying the blessing of this life, be admitted to those which are eternal. Through Jesus Christ our Lord. Amen.

JOURNAL.

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

LEAVE OF ABSENCE.

Mr. J. M. BAILEY asked and obtained leave of absence for Mr. Gilpin for today.

ARTICLES ON PARCHMENT.

Mr. HAY. On the fourteenth of October I offered the following resolution:

Resolved, That when the articles have passed third reading and have been reported by the Committee on Revision and Adjustment, they be printed in Philadelphia upon parchment; and that each sheet after being reported as correctly printed by said committee, be publicly attested by the President and Chief Clerk of the Convention; and that the proposed Constitution be then signed in Convention by the delegates in alphabetical order.

That resolution is found on page 1261 of the Journal. I move that the Convention proceed to its second reading and consideration.

The PRESIDENT. It will come up more properly after original resolutions.

Mr. HAY. Then I withdraw my motion for the present.

COMMITTEE OF INVESTIGATION.

Mr. WRIGHT. I move to reconsider the vote on the passage of the resolution offered by Mr. Boyd for the appointment of a committee to examine the slanderous charges made against certain members of this Convention as referred to in the personal explanation of Mr. J. W. F. White, of Allegheny.

Mr. HUNSICKER. I call for the yeas and nays on that motion.

Mr. ALRICKS. I second the call.

Mr. HAY. I inquire whether that committee has not already been appointed.

The PRESIDENT. The committee has been appointed.

Mr. BOYD. And have had a meeting already.

The PRESIDENT. The committee were appointed last evening, and the chairman states that they have had one meeting, but of that the Chair knows nothing.

Mr. HAY. If that fact is known, that the committee have already acted, the motion ought to be withdrawn.

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

The question being taken by yeas and nays, resulted as follow :

Y E A S.

Messrs. Ainey, Alricks, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Beebe, Black, Calvin, Church, Cochran, Finney, Funck, Gibson, Guthrie, Hemphill, Horton, M'Murray, Mann, Minor, Patterson, D. W., Patterson, T. H. B., Purviance, Samuel A., Rooke, White, Harry and Wright—25.

N A Y S.

Messrs. Achenbach, Andrews, Armstrong, Barclay, Barr, Biddle, Boyd, Brodhead, Broomall, Campbell, Clark, Cronmiller, Curry, Curtin, Dallas, Darlington, Davis, De France, Elliott, Green, Hall, Hanna, Harvey, Hay, Hunsicker, Kaine, Lamberton, Lawrence, Lear, Lilly, Long, M'Culloch, Manter, Mott, Niles, Patton, Porter, Purman, Purviance, John N., Read, John R., Reed, Andrew, Rose, Runk, Russell, Smith, Wm. H., Stanton, Van Reed, Wetherill, J. M., White, David N., White, J. W. F. and Walker, *President*—51.

So the motion to reconsider was not agreed to.

ABSENT.—Messrs. Addicks, Baer, Bannan, Bardsley, Bartholomew, Bigler, Bowman, Brown, Buckalew, Bullitt, Carey, Carter, Cassidy, Collins, Corbett, Corson, Craig, Cuyler, Dodd, Dunning, Edwards, Ellis, Ewing, Fell, Fulton, Gilpin, Hazzard, Heverin, Howard, Knight, Landis, Littleton, MacConnell, MacVeagh, M'Camant, M'Clean, M'Michael, Metzger, Mitchell, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Pughe, Reynolds, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Stewart, Struthers, Temple, Turrell, Wetherill, John Price, Wherry, Woodward and Worrell—57.

ARTICLES ON PARCHMENT.

Mr. HAY. I now move that the Convention proceed to the second reading and consideration of the resolution offered by myself on the 14th of October, to be found on page 1261 of the Journal.

The motion was agreed to.

The resolution was read the second time as follows :

Resolved, That when the articles have passed third reading, and have been reported by the Committee on Revision and Adjustment, they be printed in Philadelphia, upon parchment, and that each sheet after being reported as correctly printed by said committee, be publicly attested by the President and Chief Clerk of the Convention ; and that the proposed Constitution be then signed in Convention by the delegates in alphabetical order.

The PRESIDENT. The resolution is before the Convention on its passage.

Mr. HAY. This is one of those matters of from which, while seemingly unimportant, it is really necessary to consider. We shall be delayed a week if some resolution of this character is not passed. Certainly anything that will occupy us for that space of time is not entirely unimportant. It will be observed that these articles are now in the hands of the Committee on Revision and Adjustment under a resolution which was adopted on the 10th of October upon the motion of Governor Bigler in the following language :

"That the Committee on Revision and Adjustment be instructed to report to the Convention any inaccuracies in language or punctuation that may appear in the several articles, with sub-headings to the same, for the action of the Convention thereon."

I may here say that I will vote against the insertion of any sub-headings into the original copy of the Constitution which is to be signed by the President and members of this Convention, and filed in the office of the Secretary of the Commonwealth ; though there can be no objection to printing sub-headings in the pamphlet and newspaper copies which will be distributed as a sort of index to its contents.

These articles will all have to be reported by this committee. The object of this resolution is to provide that the articles shall be printed after their supervision by that committee, and a report upon

their language and punctuation, upon parchment in suitable style in Philadelphia under direction of the committee, so that they can have a close supervision over the whole work; and that after these articles are carefully and properly printed on parchment in permanent form, they be reported as correctly printed by that committee to the Convention and that each sheet be then publicly and properly attested in open Convention by the President and Chief Clerk so that each sheet of this Constitution can be thoroughly authenticated and its originality placed beyond any question hereafter; and then after that is done the whole can be signed by the whole body of the members. I propose that these articles be printed instead of written, because the work will be more accurate, more convenient, more suitable in every way; and it will not take one-fourth of the time that would be required to have it written. If it is written, it will have to be written by a very competent person, by one man thoroughly familiar with such work, and it will take a full week during which we must wait for its completion. I hope this resolution will be agreed to.

Mr. LILLY. The only objection that I see to this resolution is that these articles are usually in writing instead of being printed. It is a question for the Convention to consider and decide as to whether they should be printed or written. For my part, I do not care anything about it, one way or the other. The custom in preparing legal papers is to write them, and we have transcribing clerks appointed and paid to do this very duty. However, I do not care anything about it.

Mr. CARTER. The only important matter in relation to this subject, it seems to me, is that the proposition of the gentleman from Allegheny will economize time and expense. I think both of these ends will be promoted by the passage of the resolution, and to my mind that is a sufficient reason.

The PRESIDENT. The question is on the resolution.

The resolution was agreed to.

THE LEGISLATURE—DELAWARE COUNTY.

Mr. BROOMALL. I desire to call up the resolution offered yesterday, a copy of which will be found on the tables of members.

The PRESIDENT. The resolution will be read the second time.

The CLERK read as follows:

Resolved, That the Committee on Revision and Adjustment be directed to strike out of the article on Legislature the words, "the county of Delaware may be united with adjoining wards of Philadelphia to form a district," in the sixteenth section, and insert in lieu thereof the words, "except where the adjoining counties have each at least one ratio of population."

Mr. BROOMALL. I desire the attention of the delegates for a very few moments to explain this resolution. I am satisfied that they will favor me by passing it and get my section of the State out of the difficulty in which it is now. It will be seen by the section as it was passed that no county can be made a single district unless it contains four-fifths of a ratio instead of three-fifths, as was the original idea. It makes every county that contains a full ratio a district by itself, the result of which is that no county can be attached to an adjoining county that has a full ratio. That is what makes the difficulty with respect to Delaware county. Montgomery county and Chester county each have a full ratio but not enough for two Senators—a good deal more than the number for one, and not enough for two. Philadelphia, of course, has more than a full ratio. It was necessary to make some provision, as the committee thought, for the case of the county of Delaware. The county of Delaware is the only one that happens at the time to be peculiar. If the county of Dauphin had had a few more population the county of Lebanon would have been in precisely the same situation, and who knows but that in a few years Lebanon county may be in the same situation, as may be another county or so. Lebanon is the nearest one to the position of Delaware; that is the nearest one shut out from the possibility of being connected with other counties. It is necessary, therefore, to make some provision outside of the county of Delaware, because after the next census the county of Delaware may be out of the difficulty and Lebanon in, and then the Constitution will be unmeaning.

I therefore propose this general principle, that where it is impossible to connect a county like Delaware having nearly a ratio with another county, it should be itself a separate district, and I therefore want the article to read in this way:

"But no county shall form a separate district unless it shall contain four-fifths

of a ratio, except where the adjoining counties have at least one ratio of population."

That will provide for the present case of Delaware, and will provide for the future case of Lebanon and perhaps another county or so.

In regard to the case of the county of Delaware, the only counties interested are Philadelphia, Montgomery, Chester and Delaware, for they are the only adjoining counties, and the proposition does not increase the Senators a single one; it only proposes that Delaware should get the excess of Chester and Montgomery instead of the excess of Philadelphia, and the gentlemen from Montgomery and Chester are not objecting to Delaware having the advantage of that excess. I would as lief be connected with either of them, but they both make some objection and much prefer to lose their excess to having a double district; and therefore I offer the proposition as it now stands, so that the present case of Delaware and the future case of Lebanon may have a provision that will be applicable to both of them. You will see at once that the number of Senators is not thereby increased, and we get over the difficulty of allowing a Senator always in Delaware to represent Philadelphia people, or allowing Philadelphia to govern Delaware without representation and get nine Senators in place of eight. I trust the resolution will be passed.

Mr. CAMPBELL. I ask for the yeas and nays on the resolution.

Mr. J. R. READ. I second the call.

Mr. D. N. WHITE. I rise to a question of order. I rise to know whether by a single resolution here we can change an article after it has passed third reading.

The PRESIDENT. What is the question of order?

Mr. D. N. WHITE. That we cannot by resolution change an article after it has passed third reading.

The PRESIDENT. The Chair is compelled to rule that the point of order is not well taken.

Mr. D. N. WHITE. Then we are never done.

Mr. HOWARD. I am very glad to see by this proposition that the delegate from Delaware has not gone to New Jersey. I am glad that he is here, and as I opposed his particular views before, I am very glad to say to that delegate now that I have no objection to this proposition. I

think it is a very fair one and I shall not object to it.

Mr. BUCKALEW. If this resolution passes, I do not know anything from the beginning of our work to the end of it that we cannot change on motion and by a single vote. The proposition of the gentleman from Delaware is substantially to strike out of this section one of its material provisions which was voted upon over and over again on third reading, on motions to go into committee of the whole and rejected by the Convention. This motion, besides striking out the particular clause in relation to Delaware, conflicts with the section in one of its leading provisions as to that county, which is that no county shall be entitled to separate representation unless it shall possess four-fifths of a ratio. This is in direct conflict with that general provision on which apportionments throughout the State are to be made. How it can be reached on a motion and a single vote of this kind, I cannot understand.

There are a great many provisions in the Constitution to which I am opposed, and there are, I suppose, very few provisions that have been debated to which some member of the Convention is not opposed. Now, if the Convention entertain this extraordinary, and as I insist upon it, unparliamentary motion, any member who is opposed to any provision of the Constitution on a mere resolution can raise the question of striking it out or of inserting something else.

Besides this (which ought to be conclusive on members to reject this pending proposition) upon the merits this thing ought not to be done. Here is a county with a population slightly exceeding half a ratio, and it may hereafter fall below one-half; and yet the gentleman proposes to give to that county pre-eminence and privileges that no other county in the State can possess. The gentlemen of the Convention will perceive that the position of Delaware as reported by the committee on Revision, under instructions of the Convention, is under the rule of necessity made just as favorable as possible. If it shall attain hereafter four-fifths of a ratio, it will be a separate senatorial district. If manufacturing interests should spring up and population grow in that county, it will be entitled to a Senator as soon as it contains four-fifths of a ratio. The provision as to its junction with adjoining parts of the city of Philadelphia is simply permissive to the Legislature. They are

to be permitted to join her, if necessity demands it, to adjoining wards of the city of Philadelphia to form a district.

Mr. BROOMALL. I should like to ask the gentleman from Columbia whether the article is not so framed as to render it impossible for the Legislature to do anything else, and I should like to ask him also what he proposes to do with Lebanon when Dauphin has a full ratio.

Mr. BUCKALEW. The case of Lebanon we will discuss when the gentleman introduces his next resolution to undo what the Convention has done upon third reading and final passage. I am speaking now as to the question of Delaware; and I insist upon it that if this county, with thirty-nine thousand inhabitants, when the ratio as it at present exists is seventy thousand, is to have a separate Senator, we must go back and reconsider our work and give the counties exceeding one-half a ratio also a separate representation in the Senate; and then I should like to know how you are going to make an apportionment of the State, how you are to form districts in the Commonwealth on that principle. Sir, this thing has been gone over and over again by standing committees in regular course and by the Committee on Revision, and was thoroughly debated.

I object then, as a member of the Convention, to opening any of these questions in this way, and I insist upon it that if the Chair does not feel justified to rule the question of order absolutely as a matter of form, the Convention itself will determine that articles that have passed final reading and gone to the Committee on Revision for correction of errors shall stand unchanged, subject only to the provision that we may submit anything to a separate vote if we choose.

Mr. DARLINGTON. With regard to the time and manner of making this correction, if it ought to be made, I do not think the Convention should be bound by any rules until they get the Constitution exactly as it ought to be. We are bound by no rules to do anything wrong, and therefore I take it that until the last hammer falls, we can recall and undo anything that we see fit to undo. If we cannot do this, our Constitution will go forth in a very imperfect form as to grammar and arrangement; and I think there is a precedent for this very motion in something that previously took place. I do not know whether at the instance of the gentleman from Columbia or not;

but there was a resolution passed the other day sending to the Committee on Revision and Adjustment a correction similar to this.

Now, sir, as to the amendment itself, it will be borne in mind by the Convention that this alteration with regard to Delaware county was put in by the Committee on Revision or a committee to whom the subject was referred on third reading. It never passed committee of the whole and second reading.

Mr. BUCKALEW. I beg leave to explain. The resolution passed the other day was that the Committee on Revision should strike out certain words as a matter of form, because they had no meaning. It was simply and purely to correct an error, not to change anything of substance.

Mr. DARLINGTON. That only shows that we can correct errors, whether of form or substance, while a majority of the Convention retain their senses.

Now, sir, the amendment with regard to the county of Delaware was put in upon third reading, and not before the section was reported by the committee to whom the article was sent and without instructions. There was no vote of this body authorizing the clause to be placed there. It was put there by a committee, and then upon a vote it was left there; but there has been but one vote of this body placing that singular provision there. Now, why is it insisted upon? You had the other day the consent of the delegates from Montgomery, of the delegates from Chester, and the delegate from Delaware, in which three counties there is sufficient population to entitle them to three Senators according to the present census. We do no injustice to anybody when the representatives of these three counties agree unanimously that instead of joining Delaware to either of them, they would prefer that she should be made a separate district. Her case is exceptional. Now, what is the objection to giving to those three counties their three Senators and dividing them as they see fit? It hurts nobody; it accommodates this difference, and it gains for the Constitution the whole county of Delaware almost by a unanimous voice, which may be a matter of some importance when we come to the vote. The resolution of the delegate from Delaware allows a similar arrangement to be made in the future by the Legislature in cases that may arise, as in the county of Lebanon

and perhaps others, for in the changing population of the various counties of this Commonwealth we do not know when or where the Legislature will be called upon in the apportionment to apply the rule; but the rule is right in itself, and as it has the sanction of all those who are really interested in it, I hope it will be adopted.

Why was it that after two or three solemn votes of this Convention in committee of the whole and on second reading that Philadelphia never should have more than one-sixth of all the Senators, this committee undertook to say that she should have eight Senators and more by annexing to her the county of Delaware. This was an exceptional case, and to get over it they endeavored to give to Philadelphia more members than this Convention had twice solemnly resolved she should have. Now, let us adhere to that principle, for it has been adhered to again and again. Philadelphia has enough when she has one-sixth of the whole. Why, therefore, interfere with the arrangement of Chester, Delaware and Montgomery? I beg of the Convention to give this resolution a fair and candid consideration. Do not let us be deterred by the fact that we are now voting upon it distinctly in this form, because it is in our power to do what we want to do in whatever form we choose to do it.

The PRESIDENT. The question is on the adoption of the resolution.

Mr. D. N. WHITE. I call for the yeas and nays.

Mr. STANTON. I second the call.

The question being taken by yeas and nays resulted as follows:

Y E A S.

Messrs. Ainey, Armstrong, Bally, (Perry,) Baker, Barr, Beebe, Biddle, Boyd, Brodhead, Broemall, Church, Clark, Collins, Corson, Curry, Curtin, Cuyler, Darlington, Davis, De France, Ewing, Finney, Funck, Gibson, Green, Hemphill, Horton, Howard, Lamberton, Lawrence, Lear, Lilly, Littleton, MacVeagh, M'Culloch, Mann, Niles, Palmer, G. W., Patton, Porter, Purviance, John N., Purviance, Sam'l A., Reynolds, Rooke, Runk, Smith, H. G., Struthers, Van Reed, White, Harry, White, J. W. F. and Walker, *President*—51.

N A Y S.

Messrs. Achenbach, Addicks, Alricks, Andrews, Barclay, Black, Buckalew, Calvin, Campbell, Carter, Cassidy, Cochran, Corbett, Cronmiller, Dallas, Elliott, Guthrie, Hall, Hanna, Harvey, Hay, Hazzard, Kaine, Landis, Long, MacConnell, M'Clean, M'Murray, Mantor, Mott, Newlin, Patterson, T. H. B., Purman, Read, John R., Reed, Andrew, Ross, Russell, Simpson, Smith, Wm. H., Stanton, Temple, Wetherill, J. M., White, David N., Worell and Wright—45.

So the resolution was agreed to.

ABSENT.—Messrs. Baer, Bailey, (Huntingdon,) Bannan, Bardaley, Bartholomew, Bigler, Bowman, Brown, Bullitt, Carey, Craig, Dodd, Dunning, Edwards, Ellis, Fell, Fulton, Glipin, Heverin, Hunsicker, Knight, M'Camant, M'Michael, Metzger, Minor, Mitchell, Palmer, H. W., Parsons, Patterson, D. W., Pughe, Sharpe, Smith, Henry W., Stewart, Turrell, Wetherill, Jno. Price, Wherry and Woodward—37.

THE RAILROAD ARTICLE.

Mr. COCHRAN. I offer the following resolution:

Resolved, That the Committee on Revision and Adjustment be directed to strike out of the fourth section of the article on railroads and canals the words "undue and unreasonable."

Mr. D. N. WHITE. I want here now, once for all, to protest against altering by resolution articles that have passed third reading.

Mr. DARLINGTON. What is the question?

The PRESIDENT. The resolution offered by the delegate from York to strike out certain words from the fourth section of the railroad article.

SEVERAL DELEGATES. Let it be read.

The PRESIDENT. The resolution is not yet before the Convention. It has been read but once.

Mr. D. N. WHITE. I rise to a question of order.

Mr. DALLAS. I call for the yeas and nays on proceeding to the second reading.

Mr. ARMSTRONG. I rise to a point of order. This motion differs from that which was made by the gentleman from Delaware. The motion of the gentleman from Delaware was to instruct a committee, and when their report comes in it will be for the action of the body. The gentleman from York now proposes by a direct motion to strike out from an article a clause that has been inserted which is

in direct contravention of a rule on that subject, and I ask the decision of the Chair.

The PRESIDENT. The yeas and nays are called for on proceeding to the second reading of the resolution.

Mr. HUNSICKER. Now I rise to a point of order, and I want the point made, so that it can be appealed from. My point of order is that after an article has passed finally, and a motion to reconsider has been once made and voted down, no article of this Constitution can be changed by resolution. If the Chair decides against that point of order, as I take it for granted he will, I shall take an appeal from that decision. I ask that the Chair will decide my point of order.

The PRESIDENT. The motion now is to proceed to the second reading and consideration of the resolution of the gentleman from York, and the point of order of the gentleman from Montgomery is not before the Convention.

Mr. CUYLER. Do I understand the Chair to rule that it is competent to alter an article after third reading, without a reconsideration of the vote by which the article passed finally?

The PRESIDENT. The Chair has ruled in the case of the resolution as to Delaware county, that it is in the power of a majority of this body to correct an article, even though it has passed on third reading.

Mr. CUYLER. Without a reconsideration?

The PRESIDENT. Without a reconsideration.

Mr. HUNSICKER. That is the decision of the Chair?

The PRESIDENT. Yes, sir.

Mr. HUNSICKER. Then I take an appeal from the decision.

The PRESIDENT. The Chair will leave it to the House, if there is to be any controversy about it. The opinion of the Chair has been stated, but he will leave the subject to the body.

Mr. CUYLER. I trust I may be pardoned a single remark. Of what value would be a rule which requires the course of procedure in such a case to be by a motion to reconsider, when the end can be reached by a resolution without a motion to reconsider? Such a rule under such a practice would be preposterous.

Mr. BROOMALL. Is not the distinction this: After the article has passed third reading it cannot be brought up again by a direct vote upon the article, because the

business of legislation with respect to the article has been completed. The point that I am prepared to maintain in regard to the resolution I have just offered, and which is similar to the one offered before, is this: That it is competent for the House to direct any of its committees to make any change in an article, or at any period resolve itself into committee of the whole for the purpose of doing so. I think such a proceeding is clearly within the power and province of the body, but I hardly think it is competent for the House, by a direct vote, to alter or amend an article that has passed on third reading.

The PRESIDENT. The Chair is unable to see the distinction which the delegate from Delaware draws. If the Convention has power to do this in one way, it ought to have power to do it in another.

Mr. COCHRAN. The resolution which I have offered is precisely in the same position as the resolution just offered by the gentleman from Delaware and is directly in the line of precedent. When the gentleman introduced his resolution, I did not think that the course he suggested was advisable, and I therefore voted against the resolution of the gentleman from Delaware. But the Convention has agreed to his resolution, and as that has been done, I hope this body will not make fish of one and flesh of another. They have committed themselves to this precedent, and I merely ask a vote on the proposition that I have made that this resolution shall go to the Committee on Revision and Adjustment with instructions to strike out the words I have indicated, just as the Convention instructed the Committee on Revision and Adjustment to strike out certain other substantial words in another article of this Constitution. I want merely the sense of the Convention on that resolution.

Mr. HUNSICKER. Does the Chair decide that that is in order?

The PRESIDENT. There is a distinction in this case from the case of the gentleman from Delaware. In this case a motion was made that the article be reconsidered, as the Chair is informed, and that was voted down, which makes it somewhat stronger.

Mr. HUNSICKER. That was done in the Delaware case also.

The PRESIDENT. I do not think it was.

Mr. HUNSICKER. The motion to reconsider was made by the gentleman from

Potter (Mr. Mann.) I seconded it myself; and it was voted down.

The PRESIDENT. The Chair does not think that this is a parallel case to that.

Mr. HUNSICKER. Certainly it is.

The PRESIDENT. The Chair proposes to have the Constitution right, and if anything should be found to be an error, he will, as far as he is concerned, afford an opportunity for the good sense of the Convention to correct it.

Mr. MACVEAGH. Will the Chair allow gentlemen who would like to see this subject in the same manner that he does, to suggest that if after we have passed an article on third reading, by the accident of two or three men of one shade of opinion being in the House at any one time, the action of the Convention can be reversed without any reconsideration of previous action other than by a mere directory vote on a resolution, we are at sea and shall stay there forever.

Mr. HUNSICKER. That is why I make my point of order.

Mr. ARMSTRONG. I rise to a question of order. When the resolution offered by the gentleman from Delaware was submitted, if it had been resisted on the ground that it was not in order, I should have voted to sustain that objection, but when the question was not put upon that ground and was submitted to the Convention on its merits, then I voted according to my view of the merits of the case. On the pending motion of the gentleman from York I inquired of the Chair whether the motion to strike out was not made when the question was before the House on third reading? If so I will say that it is not now in order, the vote having been once taken upon it in express terms.

The PRESIDENT. The Chair will state that the Clerk informs him he has no distinct recollection of the fact of a motion to reconsider having been made. There was such a motion made on some article.

The CLERK. I think it was on the legislative article.

Mr. DALLAS. What is the motion now before the Convention?

The PRESIDENT. To proceed to the second reading and consideration of the resolution offered by the gentleman from York.

Mr. DALLAS. I respectfully submit whether that is in order at this time. If it is so decided I shall second the appeal of the gentleman from Montgomery.

The PRESIDENT. I certainly will leave this question of order to the House, for it is a question that perhaps concerns the Chair more than it concerns parliamentary law.

Mr. HUNSICKER. Let that decision be by yeas and nays.

Mr. NEWLIN. How shall we vote?

Mr. BUCKALEW. This is a pure question of order, and as the Chair has now submitted it to the Convention it should be decided as such, and the decision maintained hereafter.

In the first place the resolution cannot be in order, because it violates our rule concerning the reconsideration of articles. We have a rule that no article shall be reconsidered after six days of actual session. That is our rule. Now if instead of reconsidering an article any gentleman can get up and by resolution open any part of the article and change it, that whole rule is swept away. It no longer exists. It follows that it cannot be in order in this manner to change anything of substance in any article which has been passed upon by the Convention, either within six days, or after six days; not within six days, because the reconsideration is provided for by the rule, and not after six days because that would nullify the whole regulation and render it worthless and farcical.

In the next place, with regard to corrections of articles we have an established regulation of this Convention. By a deliberate vote, duly and carefully considered and adopted, it was provided that all these articles should be referred to the Committee on Revision and Adjustment after third reading. This very article is there before that committee, and not before this Convention, unless the committee is discharged. Therefore this and the prior resolutions are out of order for that reason. You cannot consider anything in this way until you have it before the Convention. In that resolution it was provided carefully what the Committee on Revision and Adjustment should do. They were not to touch anything of substance. That was forbidden, and properly and necessarily forbidden; but the committee were authorized to make corrections of punctuation, to make corrections of mere blunders, to make corrections of grammar, and report back the articles revised. The point is, that the Convention has made these regulations as to corrections which may be made after third reading, or even after the time for the reconsideration.

tion is passed. They are mere corrections of style, mere corrections of form, mere corrections of errors, and matters of that sort, which do not touch the substance of the article. The motion of the gentleman from Delaware which was entertained hurriedly by this Convention against my protest was an error and it opens up before this Convention every article and section and clause from one end of our work to another, and there is no possible limitation upon what we may do except the length of our sessions and the pleasure of the majority, and that majority may vote aye or no, according to the accident of who happens to be in attendance, or what happens to be the temper of the body, and whether members do or do not hear the subject that is to be introduced before the House.

Sir, rules for bodies of this kind are made to curb majorities, to limit the absolute power of a majority at any moment, to do whatever it may please under the impulse of passion or under circumstances of haste. Therefore, these motions violate all parliamentary principle. They put us afloat upon an unlimitable sea of motion of debate, and unless the Convention interposes now promptly and puts it down we shall be obliged to extend our session. It would be most unjust and odious if the gentleman from Delaware and the gentleman from York were allowed to introduce their favorite propositions to change sections, when all others would be excluded from the introduction of theirs.

I hope that this motion of order which the Chair has very properly submitted to the Convention will be decided rightly and promptly, and that then some two gentlemen who voted with the majority upon the motion of the gentleman from Delaware will move to reconsider that vote, and we shall get back to parliamentary law, and fair and equal principles among the members of this Convention, so that we may be ready for adjournment at the time we have fixed.

Mr. BROOMALL. I would do anything I could to favor an early adjournment. I would do anything to accommodate the gentleman from Columbia in his anxiety to have things nailed fast, if I did not foresee that we shall do that which we will regret if we decide that there is no earthly mode of correcting a mistake made by this Convention, discovered even on the very morning of our ad-

journalment, a mistake in matter of substance and not merely of form.

Mr. MACVEAGH. Will the gentleman pardon a question?

Mr. BROOMALL. Well.

Mr. MACVEAGH. That can always be corrected when two-thirds of this body are satisfied.

Mr. BROOMALL. Ah! There are two parties here. One set of gentlemen say that these things can only be done by unanimous consent, the result of which is that if we should discover that by some unfortunate accident we had put into our Constitution a provision the effect of which nobody saw at the time, but which would be very disastrous, and should discover it on the very morning of the adjournment of the Convention, one man would have it in his power, if he saw fit, to interpose an objection to put that ridiculous proposition before the people, against the votes of one hundred and thirty-two delegates. And the gentleman from Dauphin, on the other hand, says that it requires two-thirds to make the correction of an error. Is that any better? Shall one-third of this body force two-thirds to put before the people a proposition manifestly wrong and ridiculous? I trust not. There is nothing in ordinary legislation certainly corresponding with our business upon this subject. I know, and the gentleman from Columbia knows, that upon the very last day of the session of a legislative body an act can be passed repealing any other act or changing another. He knew as well as I know, that there is nothing irrevocable done by an act of Legislature that cannot be changed in the last moment of the session. I would like him to contrive me some way by which the same thing can be done here. Not of course by enacting a law. We cannot enact laws; but by some contrivance or other. Do not let us lock the door; do not let us say that while every other legislative body can, in some mode until its final adjournment, correct mistakes we cannot; but that we are bound to put before the people, if one man says so, or if one-third of our body says so, any proposition, no matter how ridiculous. I want the Constitution to go before the people containing the will of the majority of this body, and that cannot be done unless this body is kept as free as other legislative bodies, to do any act on the last day of its session that may correct any mistake or blunder that it has made before. It will not do for us

to decide this question the way the gentleman from Columbia asked us.

Mr. DALLAS. Mr. President: I do not see myself, I confess, the difference between the resolution offered by the gentleman from Delaware and the resolution now offered by the gentleman from York. There is no practical difference.

Mr. BROOMALL. There is no difference at all. I have looked.

Mr. DALLAS. But I appeal to this Convention, if they are satisfied, as I have been satisfied by the argument of the gentleman from Columbia, that an error in the case of Delaware was made, that they shall not repeat that error and now make it a precedent. Now is the time for this Convention to say that it shall not be a precedent.

Mr. President, adherence to our rules of order is the best safety against our making substantial errors. I do not agree with the gentleman from Delaware that we should violate rules of order that we have established, violate all principles of parliamentary law, because he or because the accidental majority of a quorum to-day may think that when a majority of the Convention, in pursuance of its regular rules, did a certain thing, they committed a great error. I tell you, sir, that the case the gentleman from Delaware puts is not a fair case. He assumes the difficulty upon the last day of this session of the discovery of some great blunder made; but the discovery then may be the blunder and the work done before may have been the correct thing, and the accidental majority of a quorum then present upon that last day may reverse the work which the Convention deliberately and properly did at the previous stage of its session.

I hope, sir, that the point of order will be sustained.

Mr. PURMAN. Mr. President: I want to repeat to the Convention on this question of order what my friend (Mr. Dallas) has said. The difficulty supposed by my friend from Delaware (Mr. Broomall) is a mere supposition and not real. If on the last day of the session the Convention should discover that an error had been committed in some section of an article or in some one of the articles, it would be perfectly competent for the Convention under the rules to refer the article to a committee, and the committee could report the corrections and we could go into committee of the whole, and we could put it through a second and third read-

ing all on the same day; but of course it would require a two-thirds majority to suspend the rules. So there is no trouble in correcting a mistake that has been or may be made, and correcting it in accordance with the rules of the House.

Mr. COCHRAN. Mr. President: I offered this resolution in exact accordance with the precedent which was set by a majority of the Convention, by their deliberate act, on the resolution offered by the gentleman from Delaware. I took the language of that resolution in large part; and this very question which is now raised here and contested so strongly by some gentlemen, was raised on that, was presented to the Convention by the delegate from Columbia, and the Convention, with that question pending, deliberately passed the resolution of the gentleman from Delaware. Now, sir, is the Convention going to turn its back upon itself, in Hibernian phrase, in this manner, and in the course of half an hour or less to deliberately say they will permit a thing to be done in one case which they will not even permit to be considered in another case? I stand simply upon the precedent set by the Convention itself, and I ask the Convention now to do equal justice between different parties and different propositions. They have established the rule by their own act, and now let them stand by that act and give an opportunity to have this matter considered even as they considered the other. That, sir, is what I desire. I am anxious on this proposition; just as anxious as the gentleman from Delaware was on his. If gentlemen felt that it was wrong to do that, why did they not interpose with their question of order then and rule out that proposition? Some gentlemen, I believe, who have raised this very question, and who have advocated it, actually voted in favor of that proposition, and when this was brought up they raised this question in the face of that action. I hope, sir, that the Convention will maintain its position and entertain the proposition.

Mr. J. R. READ. Mr. President: I should like to have the question stated by the Chair. There is some confusion in my mind, and I presume there is also in the minds of some other delegates as to how we should vote, for the reason that there has been no decision on this question by the Chair. I am desirous of voting in favor of the point of order made by the gentleman from Montgomery.

The PRESIDENT. The Chair will suggest that those who vote in favor of the House having the power will vote "aye," those opposed "no."

Mr. HUNSICKER. I desire to make a personal explanation in regard to my vote on this question. Several days ago when the delegate from Fayette (Mr. Kaine) offered a resolution to change an article of the Constitution after it had passed third reading, I rose and distinctly made the point of order, which is found on the Journal of this House, against the legality of that proposition. This morning, when the gentleman from Delaware made his proposition, inasmuch as I was directly interested in the result of that vote, I said nothing, but I did not vote because I believed the proposition to be illegal and void. I believe that after the Convention has in conformity with its rules passed an article to third reading, and passed it finally, and the time has elapsed for a motion to reconsider, or a motion to reconsider has been made and voted down, it is beyond the power of this Convention to change it by a mere resolution, and if you could change it by a mere resolution you could change it every day. It is because the majority of this body is an accidental majority. Some members may leave the Hall and others come in in their place, and some member could in the very last hour of the last day of this Convention's session come in here with a resolution and substitute the Constitution of the State of Ohio for our whole work, carry it by one majority, and move a *sine die* adjournment and carry it. Therefore I make this explanation now so that the gentleman from York may not suppose that I make this point of order because he makes a motion with reference to the railroad article.

Mr. MACVEAGH. Mr. President: I insist that some of those who voted for the resolution of the gentleman from Delaware shall not be placed in a false position by the remarks of the gentleman from York or any body else, because they vote upon this question of order in obedience to their convictions. If the question of order had been raised on Mr. Broomall's proposition and submitted to a vote, I for one should have voted that it was wholly out of order; but regarding the section he desired to strike out as a peculiar blot upon the Constitution, if nobody raised the point of order, I was willing to vote for his resolution, as I did vote for it; but when the point of order

is raised here that an accidental majority of one on the last day of the session shall have power to change every article that has been discussed, deliberated upon, and passed through all the stages of deliberation in this body, as gravely proposed by the gentleman from Delaware, and when his proposition is put on as rotten a basis as that, I, for one, when that question of order is raised, am against it from first to last. It is, as the gentleman from Columbia said, for the protection of minorities, and not only that, but for the protection of the deliberative action of an assembly, that rules of order are made. We do not want to re-enact the last hours of the session either of the national or State Legislatures. God forbid! We have stopped our own Legislature from doing it. Henceforward the last ten minutes of the session will not repeal or pass laws in Pennsylvania, and we do not want it introduced here. We do not want the disgrace that the whole nation feels in the closing hours of the National Congress and the closing hours of the State Legislatures re-enacted on this floor. And though it is an honest and good proposition, as I believe it to be, if it rest on such a doctrine as that, when I stand face to face with it, much as I respect his constituency and glad as I would be to serve them, I never will give my assent to such a proposition of order as that; that all our deliberations for months and months and months are as nothing, not the dust of the balance, compared with the weight of this Convention made and supported by an accidental majority the last three hours we are in session. It seems to me the proposition is monstrous.

Mr. LAWRENCE. Mr. President: I understand the question to be this, and I think the Chair should so state it: Is it in the power of this Convention after an article has passed beyond third reading, to amend it by a simple resolution? I agree perfectly with the gentleman from Columbia, although I voted as my friend from Lycoming did, for the resolution of the gentleman from Delaware. I did it as the question of order was not raised, and I thought as it came before us in that shape, as his proposition was proper and right in itself, I would vote for it; but I shall vote, if anybody makes a motion to reconsider that, to reconsider it in order to set ourselves right.

Mr. President, I liken this committee very much to the Committee on Enrollment which we have in the House and in

the Senate of Pennsylvania. It is a mere committee for correction, to read and correct the articles, see that they are right before they go to the printer and before they go to the Governor. Did you ever hear in your experience, sir, and it was long in the House and Senate—did you ever know any motion in the House or Senate to offer a resolution instructing the Committee on Enrolment to amend a bill? I never did in all my experience, and I was there ten winters. I never heard of such a thing, I never knew that a bill after it had passed third reading could be amended except by reconsideration, and after the five days have passed it cannot be reconsidered. Now, if we want to get clear of the difficulty to which my friend from Delaware refers, (and it is a practical difficulty,) we ought to extend the time for reconsidering our articles. As we come near our adjournment on the last day, as he intimates, it is in the power of this Convention to reconsider; it is in the power of two-thirds, as my friend from Dauphin says, to reconsider and amend; but it is not in the power of this Convention to amend a bill or an article which has gone beyond third reading, by a mere resolution instructing a committee! I never heard of such a thing in my own experience, and I shall vote to say that this Convention has no power to amend an article in that way.

Mr. CARTER. I desire merely to say to those gentlemen who, like myself, might favor the subject-matter of the resolution proposed by the gentleman from York for the obliteration of the objectionable phrase referred to in it, that now is not the time to do it. The time has passed in which that can be done, and I hope members will not allow the merits of the question to influence their vote on this matter. I regard it as highly important that we shall now and forever, by our vote, prevent the continual getting up of questions in this body. I concur fully with the views of the gentleman from Columbia and the gentleman from Dauphin. We must certainly come to some determination; and I merely rise to express the hope that, however much we might favor the subject-matter proposed by the gentleman from York, we shall not allow that feeling to enter into our determination of this question.

Mr. BIDDLE. I unfortunately feel compelled to take a different course from the gentleman who has just sat down. When the gentleman from Delaware made the

motion which has been passed, I was struck with its incongruity, but as no one rose to make the point of order—

Mr. HUNSICKER. Yes, sir, it was made by Mr. D. N. White, of Allegheny.

Mr. D. N. WHITE. And I insist upon it yet.

Mr. BIDDLE. Then the case is even stronger than I put it. As the point of order was made and as it was not sustained by the Chair or by the House on an appeal from the decision of the Chair, and as it was voted upon, and voted upon affirmatively, I feel constrained to vote in favor of considering the motion of the gentleman from York; but I do it under very different circumstances from the gentleman from Lancaster who has just sat down. I shall vote for it to go to second reading, but if it goes to second reading I shall vote against it for this reason: that I think the railroad article as it has passed was fairly compromised all around and I think it now speaks more accurately the sense of a very large majority of the House, as there were but eleven members who voted against it, than it can do if it is reopened. Therefore, while I shall vote to be consistent with what we have done to-day, to give precisely the same chance to the gentleman from York or any other gentleman, as we have got into the difficulty, to make a similar motion to the gentleman from Delaware, when the resolution comes to be considered I shall vote against it.

Mr. MANN. I believe with the gentleman from Delaware that every article and every section we have passed upon is within the control of the Convention; but I do not believe that it is to be reached in the manner which was adopted by his resolution. I voted for that resolution with great reluctance; but for the reasons given by the gentleman from Philadelphia I did not feel called upon to resist it at that time. I think now, after what has occurred, that he ought to have taken the regular way to have secured the change he desired. The thirtieth rule of the Convention it seems to me will furnish the proper remedy; and that is, that propositions of this sort shall be referred to a committee and their report shall be acted upon precisely as the original article was; that is, it shall go through three several readings, first in committee of the whole, and take the precise course that an article on its first introduction into this body would take. The thirtieth rule of the Convention provides that "all pro-

positions of amendment to the Constitution offered in the Convention on any subject not then under present consideration shall, unless otherwise directed, be referred by the President to the appropriate committee. I submit that the proposition now before the Convention should be referred to the appropriate committee and their report should take the same course that the original report took. Otherwise, we are in danger of making sudden amendments to our work. This proposed amendment, which is just as important as the original section, ought to undergo all the forms of the original section; and that is precisely what occurs in the Legislature. When the Legislature find that a bill has been passed improperly, they repeal it by the same forms that they passed the original bill; and we should repeal or modify any section of our work by the same forms that we adopt it. I therefore raise the point of order that the resolution of the gentleman from York should be referred by the Chair to its appropriate committee, and then, on their report, the Convention will have it in their power to make the amendment or not as they see proper.

The PRESIDENT. The delegate from York (Mr. Cochran) offers a resolution to strike out of a certain article a few words. The point of order is raised by the delegate from Montgomery, (Mr. Hunsicker,) that that cannot be done. The Chair declines deciding the point, and leaves it to the House, as properly belonging to the House. The question then is, is the point of order well taken? Those who vote to sustain the point of order will vote "aye;" those of the contrary opinion will vote "no."

Mr. COCHRAN. Then I understand that those who are in favor of the introduction of this resolution will vote "no."

Mr. HARRY WHITE. The practical question is not an appeal from the decision of the Chair, but simply on the question of the right of the delegate to offer his resolution.

The PRESIDENT. That is the question.

Mr. BROOMALL. I should like to have the question stated again. It is not understood in this part of the Hall.

The PRESIDENT. The Clerk will read it as it is journalized, and that will indicate what action we are about to take.

The CLERK. Mr. Cochran offered the following resolution: *Resolved*, That the Committee on Revision and Adjustment be directed to strike out of the fourth sec-

tion of the article on railroads and canals the words 'undue and unreliable'" Mr. Hunsicker raised the point of order that it was not in order to alter an article by resolution after it had passed third reading, which question of order was submitted to the decision of the Convention by the Chair, and on the question, "will the Convention sustain the point of order raised by Mr. Hunsicker," the yeas and nays are to be called.

The question being taken by yeas and nays, resulted as follows:

YEAS.

Messrs. Achenbach, Addicks, Ainey, Alricks, Andrews, Armstrong, Baily, (Perry,) Bannan, Barclay, Barr, Black, Boyd, Brodhead, Brown, Buckalew, Calvin, Campbell, Carey, Carter, Cassidy, Clark, Corbett, Curry, Curtin, Cuyler, Dallas, Davis, De France, Dodd, Elliott, Ellis, Ewing, Green, Guthrie, Hall, Hanna, Harvey, Hazzard, Horton, Howard, Hunsicker, Knight, Lambertson, Landis, Lawrence, Lear, Littleton, Long, MacConnell, MacVeagh, M'Clean, M'Michael, M'Murray, Mann, Mantor, Minor, Niles, Porter, Purman, Purviance, John N., Purviance, Samuel A., Read, John R., Reed, Andrew, Rooke, Ross, Russell, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Temple, Van Reed, Wetherill, J. M., White, David N., White, Harry, Woodward, Worrell and Wright—79.

NAYS.

Messrs. Bailey, (Huntingdon,) Beebe, Biddle, Broomall, Church, Cochran, Collins, Corson, Cronmiller, Darlington, Dunning, Finney, Gibson, Hay, Hemp-hill, Kaine, Lilly, M'Culloch, Mott, Newlin, Palmer, G. W., Patterson, T. H. B., Patton, Reynolds, Runk, White, J. W. F. and Walker, *President*—27.

So the point of order was sustained.

ABSENT.—Messrs. Baer, Baker, Bardale, Bartholomew, Bigler, Bowman, Bullitt, Craig, Edwards, Fell, Fulton, Funck, Gilpin, Heverin, M'Camant, Metzger, Mitchell, Palmer, H. W., Parsons, Patterson, D. W., Puhge, Sharpe, Smith, Henry W., Stewart, Turrell, Wetherill, John Price and Wherry—27.

THE LEGISLATURE—DELAWARE COUNTY.

Mr. JOSEPH BAILY. If gentlemen have got through with their resolution I will now call up my privileged question.

Mr. NEWLIN. I thought it was the understanding that two gentlemen who voted in the affirmative on Mr. Broomall's resolution would, as a matter of honor, move a reconsideration of that vote. I would like them to explain their differences of opinion upon this subject. I understood that the gentleman from Dauphin (Mr. MacVeagh) would move to reconsider and I understood that the gentleman from Washington (Mr. Lawrence) would second the motion.

Mr. MACVEAGH. I rise to a personal explanation, which I trust the gentleman from Perry will allow me to make. I did not, as the delegate from Philadelphia has said, intend to move a reconsideration of the vote by which the resolution of Mr. Broomall was adopted.

Mr. NEWLIN. I understood you to intimate that you would do so.

Mr. MACVEAGH. Understand a man to intimate! I do not know what that means. A man says, or he does not say, something. I said nothing of the kind, or else I would do it. Nobody is ever under the necessity of understanding me to intimate anything.

Mr. JOSEPH BAILY. If gentlemen are through with their resolutions, I will move my privileged motion. [Laughter.]

Mr. LAMBERTON. If the gentleman from Perry will give way one moment, I move to reconsider the vote by which the resolution of the gentleman from Delaware was adopted this morning.

The PRESIDENT. How did the gentleman from Dauphin vote?

Mr. LAMBERTON. With the majority.

Mr. LAWRENCE. I second the motion to reconsider.

The PRESIDENT. Did the gentleman from Washington vote with the majority?

Mr. LAWRENCE. I did.

Mr. BROOMALL. Is this motion debatable at this stage?

The PRESIDENT. No, sir? The question is upon the motion to reconsider.

Mr. DARLINGTON. On that motion I call for the yeas and nays.

Mr. BROOMALL. I second the call.

The yeas and nays were taken, and were as follow, viz:

YEAS.

Messrs. Achenbach, Addicks, Ainey, Alricks, Andrews, Bailey, (Huntingdon,) Bannan, Barr, Biddle, Black, Brodhead, Brown, Buckalew, Calvin, Campbell, Carter, Cassidy, Clark, Corbett Cron-

Miller, Curry, Cuyler, Dallas, Davis, Dodd, Elliott, Funck, Green, Guthrie, Hall, Hanna, Harvey, Hay, Hazzard, Howard, Kaine, Knight, Lamberton, Landis, Lawrence, Long, MacConnell, M'Clean, M'Murray, Mantor, Minor, Mott, Newlin, Palmer, G. W., Patterson, T. H. B., Pughe, Purman, Purviance, Jno. N., Purviance, Samuel A., Read, John R., Reed, Andrew, Ross, Russell, Simpson, Smith, Wm. H., Stanton, Struthers, Temple, Van Reed, Wetherill, J. M., White, David N., Worrell and Wright—68.

NAYS.

Messrs. Baily, (Perry,) Baker, Barclay, Beebe, Boyd, Broomall, Carey, Church, Cochran, Collins, Corson, Darlington, De France, Ewing, Finney, Hemphill, Horton, Lilly, Littleton, MacVeagh, M'Michael, Mann, Niles, Patton, Porter, Reynolds, Rooks, Runk, Smith, H. G., White, Harry, White, J. W. F., Woodward and Walker, President—33.

So the motion to reconsider was agreed to.

ABSENT.—Messrs. Armstrong, Baer, Bardsley, Bartholomew, Bigler, Bowman, Bullitt, Craig, Curtin, Dunning, Edwards, Ellis, Fell, Fulton, Gibson, Gilpin, Heverin, Hunsicker, Lear, M'Camant, M'Culloch, Metzger, Mitchell, Palmer, H. W., Parsons, Patterson, D. W., Sharpe, Smith, Henry W., Stewart, Turrell, Wetherill, John Price and Wherry—32.

The PRESIDENT. The resolution is again before the Convention.

Mr. LAMBERTON. Now I rise to a point of order that the resolution offered by the gentleman from Delaware is not in order pursuant to the decision of the Convention.

Mr. BROOMALL. I desire to ask a question whether, after a resolution has been passed, a point of order can be raised with reference to it?

The PRESIDENT. The Chair under the decision of the House is compelled to sustain the point of order.

Mr. BROOMALL. Resolutions are still in order, and I offer the following resolution, to be referred to the Committee on the Legislature.

Resolved, That the words in the article on the Legislature in the sixteenth section "the county of Delaware may be united with adjoining wards of the city of Philadelphia to form a district" be stricken out, and in lieu thereof the words

"except where the adjoining counties have at least on ratio of population" be inserted.

The PRESIDENT. The Chair does not think the resolution is in order in that shape.

Mr. BROOMALL. That is precisely the shape in which all our resolutions for a reference to committees have been submitted.

The PRESIDENT. Those in favor of referring the resolution to the Committee on the Legislature will say aye—

Mr. HUNSICKER. I want to know how many votes it will take to so refer it.

Mr. NEWLIN. Does it not have to be read a second time before it is referred?

The PRESIDENT. It takes a majority of the Convention, I suppose, to refer the resolution.

Mr. BROOMALL. Has it not been the custom in this body to refer these resolutions as a matter of form?

The PRESIDENT. The Chair has referred these resolutions, at times, without a vote.

Mr. STANTON. The Chair has that power, certainly, now.

The PRESIDENT. The resolution is referred.

CORRECTING THE JOURNAL.

Mr. BIDDLE. I rise to a question of privilege. On page 1354 of the Journal, under date of October the twenty-fourth, I think there is a manifest error. I wish to call attention to it and have it corrected. I will read it and the error will appear to the House at once.

About the fifth line of the page, the Journal says:

"A motion was made by Mr. Cuyler, "That the Convention resolve itself into committee of the whole for the purpose of amending the same, by striking out the tenth section, and inserting in lieu thereof as follows, viz:

"No railroad, railway or transportation company shall grant free passes, or passes at a discount, except to officers or employees of railroad, railway or transportation companies."

"Which was agreed to."

I think that is a manifest error. The Journal ought to read: "which was not agreed to." I think that every gentleman who was present on that occasion will recollect that this was so, and if gentlemen will turn to the Debates, page 300 of the eighth volume, they will see at the bottom of the second column the discussion

upon this subject, and the statement that the motion was not agreed too. I am sure that such is the true state of the case.

The PRESIDENT. The Clerk states that this is an error of the Printer.

The CLERK. If I may be allowed I would like to make a short statement.

Mr. BIDDLE. I should like to hear the statement.

The CLERK. If gentlemen will follow up the Journal, they will see that this is an error, for it will be observed that the Convention did not resolve itself into committee of the whole. I think this was an error of the Printer. The word "not" was written but was omitted.

THE JUDICIARY.

Mr. JOSEPH BAILY. Now, if gentlemen are through with their resolutions and original motions, I will move my privileged motion to proceed to the consideration of the motion to reconsider the vote on the final passage of the article on the judiciary.

Mr. CORSON. For what purpose?

The PRESIDENT. It is moved to take up the motion, which has been already made and seconded, to reconsider the final vote on the article on the judiciary. That motion is before the House.

Mr. JOSEPH BAILY. I think we may as well have the yeas and nays on the question.

Mr. CORSON. I second the call for the yeas and nays.

Mr. JOSEPH BAILY. I wish to have the ear of the Convention for a moment.

Mr. HARRY WHITE. I rise to a point of order. It is not debatable.

Mr. JOSEPH BAILY. I merely want to state my object in moving the reconsideration.

Mr. HARRY WHITE. I object to debate.

The PRESIDENT. The motion is not debatable. The Clerk will call the names of delegates on the motion to reconsider the vote by which the article on the judiciary was finally passed.

The yeas and nays were taken and resulted as follow:

YEAS.

Messrs. Ainey, Baily, (Perry,) Bailey, (Huntingdon,) Brodhead, Buokalew, Calvin, Carey, Collins, Cronmiller, Curtin, Cuyler, Ewing, Funck, Gibson, Hanna, Harvey, Hazzard, Hemphill, Lamberton, Landis, Lawrence, Lear, Lilly, Littleton, MacVeagh, M'Clean, M'Michael, Patterson, D. W., Reed, Andrew, Reynolds,

Rooke, Ross, White, J. W. F. and Woodward—34.

N A Y S .

Messrs. Achenbach, Addicks, Alricks, Andrews, Armstrong, Baker, Bannan, Barclay, Barr, Beebe, Biddle, Black, Boyd, Campbell, Carter, Cassidy, Church, Clark, Corbett, Corson, Curry, Dallas, Darlington, Davis, De France, Elliott, Ellis, Finney, Green, Guthrie, Hall, Hay, Horton, Howard, Hunsicker, Kaine, Long, MacConnell, M'Murray, Mann, Mantor, Minor, Mott, Newlin, Niles, Palmer, G. W., Patterson, T. H. B., Paltou, Porter, Purman, Purviance, John N., Purviance, Sam'l A., Read, John R., Runk, Russell, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Temple, Van Reed, Wetherill, J. M., White, David N., White, Harry Worrell, Wright and Walker, *President*—68.

So the motion was not agreed to.

ABSENT.—Messrs. Baer, Bardsley, Bartholomew, Bigler, Bowman, Broomall, Brown, Bullitt, Cochran, Craig, Dodd, Dunning, Edwards, Fell, Fulton, Gilpin, Heverin, Knight, M'Camant, M'Culloch, Metzger, Mitchell, Palmer, H. W., Parsons, Pughe, Sharpe, Smith, Henry W., Stewart, Turrell, Wetherill, John Price and Wherry—31.

ORDINANCE OF SUBMISSION.

Mr. BUCKALEW. I desire to present a proposition for reference. I present a proposition for submitting the amended Constitution to the vote of the people. As it is of some length I will not ask for its reading, but that it be referred to the Committee on Suffrage, Election and Representation and printed.

Mr. HARRY WHITE. I should like to hear it read.

Mr. BUCKALEW. Very well.

Mr. HARRY WHITE. I know, Mr. President, that we are approaching the closing hours of the session. This is a proposition for the submission of the Constitution to the people. We want to have an opportunity of examining it.

The CLERK read the proposed ordinance.

AN ORDINANCE FOR SUBMITTING THE AMENDED CONSTITUTION OF PENNSYLVANIA TO A VOTE OF THE ELECTORS THEREOF.

Be it ordained by the Constitutional Convention of the Commonwealth of Pennsylvania, as follows:

1. That the amended Constitution, prepared by this Convention, be submitted

to the qualified electors of the Commonwealth for their adoption or rejection, at an election to be held on the second Tuesday of December next; except as herein-after ordered and directed, the said election shall be held and conducted by the regular election officers in the several election districts throughout the Commonwealth, under all the regulations and provisions of existing laws relating to general elections.

2. That at said election separate votes shall be taken upon the following parts of said amended Constitution, to wit:

1. Upon sections sixteen, seventeen and eighteen of the article entitled "the Legislature," relating to the reorganization of the General Assembly and apportionment of the members thereof.

2. Upon the article entitled "Railroads and Canals."

3. The Secretary of the Commonwealth shall at least twenty days before the said election, furnish to the county commissioners of each county, properly prepared printed ballots for the said election: the number of ballots so printed shall be three times the number of voters in such county, and the said ballots shall be accompanied by a printed circular of instructions, directing the form of all necessary blanks, tally-lists and returns.

4. The county commissioners of the several counties shall, immediately after the receipt of the said circular of instructions, cause all blanks, tally-lists and forms of returns to be properly prepared and printed, and at least five days before said election cause to be fairly distributed to the several election boards in each election district in their respective counties, the ballots, blanks, tally-lists and returns hereinbefore provided for.

5. At the said election the ballots shall be in the following form, for all persons giving affirmative votes:

NEW CONSTITUTION.

For the New Constitution and for each of the several propositions separately submitted, not struck out with pen or pencil, and against all those struck out.

1. For increased representation in the Legislature.

2. For article entitled "Railroads and Canals."

6. Each of the said ballots shall be counted as a vote cast for that portion of the new Constitution not separately submitted, and for each separate proposition

thereon not struck out with ink or pencil, and against each separate proposition so struck out. Persons voting against the new Constitution or any part thereof, separately submitted, may use a ballot with the same heading and general form, in which the word "against" shall be substituted for the word "for," in such place or places upon the ballot as the voter may choose, and the said ballot shall be counted "for" or "against" that portion of the amended Constitution not separately submitted, or for or against the proposition separately submitted, as the ballots may indicate respectively.

7. If it shall appear that a majority of the votes polled are for the new Constitution, then so much of the same as was not separately submitted shall be the Constitution of the Commonwealth of Pennsylvania, on and after the first day of January, in the year of our Lord one thousand eight hundred and seventy-four, but if it shall appear that a majority of the votes polled were against the new Constitution, then so much thereof as was not separately submitted shall be rejected and be null and void; if it shall appear that a majority of the votes polled are for the several propositions, separately submitted, or for any of them, then the several articles, sections or parts of sections embraced in such propositions separately submitted, or such of them as shall receive a majority of the votes polled as aforesaid, shall be a part of the Constitution of this Commonwealth.

In the event of the rejection of sections sixteen, seventeen and eighteen of the article entitled "the Legislature," embraced in separate proposition number one, then sections numbers four, six and seven of the first article of the present Constitution shall remain in full force and be inserted in lieu thereof.

In the event of the rejection of separate proposition number two, then the article entitled "Railroads and Canals" shall be struck out and be null and void.

8. Five commissioners of election shall be appointed by a vote of this Convention, who shall have direction of the election upon this amended Constitution in the city of Philadelphia. The said commissioners shall be persons of good repute and qualified electors of said city, and shall be duly sworn or affirmed to perform their duties with impartiality and fidelity.

It shall be the duty of said commissioners, or a majority of them, and they shall

have authority to revise the registration of voters for the several wards or election divisions of said city, to correct the same, and to furnish the said corrected lists to the election officers of each precinct or division thereof; to distribute the tickets for said city provided for by this ordinance to be used at the election; to appoint a judge and two inspectors for each election division, by whom the election therein shall be held and conducted, and to give all necessary instructions to the elections officers regarding their duties in holding the election and in making returns thereof.

The general return of the election in the said city, shall be opened, computed and certified before them, and with their approval—which approval shall be endorsed upon the return. They shall make report, directed to the President of this Convention, of their official action under this ordinance, and concerning the fairness of the said election within the said city.

The judges and inspectors aforesaid shall conduct the election in all respects conformably to the general election laws of this Commonwealth, and with like powers and duties to those of ordinary election officers. Each inspector shall appoint one clerk to assist the board in the performance of its duties, and all the election officers shall be duly sworn or affirmed according to law, and shall possess all the qualifications required by law of election officers in this Commonwealth. At said election any duly qualified elector, who shall be unregistered, shall be permitted to vote upon making proof of his right to the election officers, according to the general election laws of this Commonwealth. Return inspectors and their clerks shall be dispensed with, but overseers of election may be selected for any precinct by said election commissioners, or appointed therefor by the court of common pleas of said city, whose duties and powers shall be the same as those of overseers of election in said city, under existing election laws applicable thereto.

Returns of the election shall be made in said city as in the case of an election for Governor, but a triplicate general return for said city shall be made out and forwarded to the President of the Convention, at Harrisburg, as is hereinafter provided in case of county returns.

9. In each of the counties of the Commonwealth (except Philadelphia) returns of the election shall be made as in

the case of an election for Governor, but the return judges in each county shall make out a triplicate county return, and transmit the same within five days after the election to the President of the Convention at Harrisburg.

Mr. BUCKALEW. I move the reference of the ordinance to the Committee on Suffrage.

Mr. HARRY WHITE. We have but three or four days of our session left, according to our resolution, and this may be reported upon us when we have little else to do and may be called up immediately; no other proposition has been submitted; and we ought to have an opportunity to read it. I move that it be printed.

Mr. BUCKALEW. I am perfectly agreed to that.

Mr. HARRY WHITE. That is all I want.

The PRESIDENT. It is moved that the ordinance be referred to the Committee on Suffrage and printed.

Mr. HARRY WHITE. Printed immediately.

The PRESIDENT. The Clerk will attend to the printing if it is ordered.

The motion was agreed to.

THE SCHEDULE.

Mr. HANNA. I move that we go into committee of the whole on the schedule.

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

The CHAIRMAN. When the committee rose last evening, the motion pending was on the adoption of the twenty-second section. The section will be read.

The CLERK read as follows:

SECTION 22. The General Assembly, at the first session after the adoption of this Constitution, shall fix and determine the compensation of the judges of the Supreme Court and of the several judicial districts of the Commonwealth, and the provisions of section fifteen of the article on legislation shall not be deemed inconsistent herewith.

Mr. LILLY. I was in hopes that the chairman of the Committee on the Judiciary would have some amendment to offer to this section this morning. I think it should be provided at the end of the section that the compensation of the judges shall not be less than that received last year or this year. For my part, I think the compensation of the judiciary

is not any too much. Without some such amendment, the effect will be to drive every respectable lawyer in Philadelphia from the bench. I do not know whether it is intended to do that, but I believe that will be the result, because it will reduce the pay of the judges so low that they cannot live upon it.

Mr. BUCKALEW. I offer the following amendment as a substitute for the section:

"Nothing contained in this Constitution shall be held to reduce the compensation now paid to any law judge of this Commonwealth."

That saves the existing salaries of the judges in the city of Philadelphia and the county of Allegheny. I think that we acted without due reflection in adopting the provision which the gentleman from Lycoming referred to last evening by which the local appropriation from the treasury of this city of two thousand dollars a year to each judge and one thousand dollars from the treasurer of Allegheny county to each to the judges of that county was prohibited. I suppose it was not the intention of the Convention to strike down the existing salaries. In fact the provision of the present Constitution is that the salary of no judge shall be diminished during his continuance in office. Our new Constitution provides that his salary shall not be increased or diminished during his continuance in office. Now, sir, it is not to be tolerated in an imaginary point of time between the operation of the old Constitution and the new ten judges in Philadelphia should each have two thousand dollars struck from his salary, and that the five or six judges in Allegheny should have one thousand dollars each struck from their salaries. I do not wish to disturb that existing arrangement, and this clause will prevent any construction of other parts of the Constitution by which such a result will be produced.

This section which has been reported by the Committee on Schedule throws open the whole subject of judicial salaries all over the State to be manipulated and handled by the Legislature at its next session. I do not wish to precipitate that question upon the Legislature, and my opinion is that the appropriations made last winter by the State in connection with these local appropriations to which I have referred were reasonable and just, and that if the Legislature

should spend two or three weeks in discussing this subject they will not get a more just scale of compensation than that which is now provided. It will be observed that my amendment is drawn so as to cover the amount appropriated during the present year, that is, the amount now received, and provides that it shall not be reduced.

Mr. LILLY. I do not think the section goes far enough. It merely covers the salary, which means the lawful salary. Now I think it should cover the whole subject. It ought to read, "the compensation received by such judges during the last year."

Mr. BUCKALEW. So it does.

Mr. BIDDLE. I should like to hear the amendment read again.

The CLERK read the amendment.

Mr. LILLY. Now my objection extends a little further. In the cases of the judges in Philadelphia and Allegheny, a part of their compensation is paid by the county. This amendment does not cover that. If it does, I have no objection to it; but I should like to have it understood that it means that it will cover the compensation received by those judges from the county of Allegheny and the county of Philadelphia.

Mr. ARMSTRONG. I think it would be better, perhaps, if the gentleman from Columbia would offer his amendment as an addition to the section as it stands, instead of as a substitute for the whole section. I think there is eminent propriety in allowing the Legislature to pass at its next session upon the question of salaries, and determine them, in view of the whole question, involving a great deal of detail which it is not competent now for us to consider. It will place all the judges then upon an equal footing, start them upon exactly the same plane of compensation, and the provision which the gentleman suggests, if added to the present section, will prevent the reduction of their salaries. I think it would be better to move it as an addition, and then pass the section as thus amended.

Mr. BUCKALEW. I will withdraw my amendment for the present, so as to allow a direct vote upon the section itself.

The CHAIRMAN. The substitute is withdrawn.

Mr. BUCKALEW. If the section be agreed to, I shall move to add this proposition at the end, and if the section is voted down I shall offer it as a new section. As I said before, I am opposed to

allowing the Legislature to increase these present salaries, for I believe them to be right; but if the Convention think differently, they can so vote.

Mr. ARMSTRONG. It does not follow that the Legislature would increase them; but it would follow that they would have the right to view the entire and now complicated system of compensation which applies to the system of this State, and to place them all on the same footing. In that view I think the section is proper.

Mr. J. N. PURVIANCE. Mr. Chairman: I am opposed to this section and in favor of the section in lieu of it offered by the gentleman from Columbia (Mr. Buckalew.) This section clearly indicates to the Legislature that in the opinion of the Convention a revision of all the salaries of the judges should take place at the first General Assembly after the adoption of this Constitution. Now, if I understand the Convention rightly, they mean no such a thing, but they mean that the subject-matter of salaries shall be hereafter as heretofore, entirely regulated by the Legislature.

I have nothing to say in regard to the compensation which our judges receive. If I were in the Legislature I would favor liberality, and I think I may say truthfully that liberality always has been extended to our judges by the Legislature. As the times seemed to require it, their salaries have been increased, and at no time have they been diminished. Therefore I shall vote against this twenty-second section and I hope it will be voted down, and upon that being done, I shall vote for the section in lieu of it offered by the gentleman from Columbia.

Mr. DARLINGTON. I do not know what necessity there is for this section at all. The judiciary article contains the proper provision that "the judges of the Supreme Court and the judges of the several courts of common pleas, and all other judges required to be learned in the law, shall, at stated times, receive for their services an adequate compensation which shall be fixed by law and be paid by the State." That covers every imaginable case that exists or can arise, giving the Legislature entire control to alter the salaries from time to time, as the exigencies of the State may require. Those of us who have lived long enough to pass through several periods of currency and specie, know very well that \$3,000 at one time is not equal to \$2,000 at another, and at certain stages of time when specie payments are

resumed, as I hope they will be at a reasonably near day—

Mr. BOYD. They are resumed now it is said. [Laughter.]

Mr. DARLINGTON. I am glad to hear it, and when they are resumed the purchasing power of a dollar will be greater than it is now.

Now, while we do not allow the Legislature to reduce the salary of a judge while in office, I do not wish to prohibit them changing from time to time the salaries for the future. I see no occasion whatever for the provision of the schedule. Leave this subject to the Legislature entirely. Do not make it obligatory in its operation. If you adopt the present section it will be considered as an injunction upon the Legislature to fix these salaries at that session for all future time. I am opposed to it.

Mr. MACVEAGH. The fifteenth section of the article on legislation declares that there shall be no law passed increasing or decreasing the salary of any judge after his election. Now, the law as it stands upon the statute book to-day does not fix the salary at the sums the judges are receiving. I have been credibly informed that the general law upon the subject is very much below the annual appropriation, that the common pleas judges throughout the State simply receive their salaries at present by virtue of the annual appropriation. If you insert this provision in the article limiting the powers of the Legislature, what is the result? The salaries must necessarily fall back to the standard fixed by law, and not to the accident of the amount secured by the last annual appropriation. If the Convention understand that amendment, I am very sure they will escape from it.

Mr. WOODWARD. The gentleman from Dauphin is mistaken. His logic is very good—

Mr. MACVEAGH. Are his facts wrong?

Mr. WOODWARD. Although the appropriation bill adds to what the gentleman calls the judges' salary, yet he is mistaken in supposing, and so was my friend on the left, (Mr. Armstrong,) last evening in stating, that the next Legislature can amend that appropriation and thus go back to the old salaries of the judges. There is no such thing. Our present Constitution forbids that. Suppose the Legislature last winter had made their usual additions to the salaries of the judges in the appropriation bill, and then there had been appointed a judge before the next

meeting of the Legislature. I submit, sir, that no power in Pennsylvania could reduce the salary of that judge. It must remain at the amount in that appropriation bill. It could be increased but it cannot be diminished, so that it is a mistake to say because this addition is put in the appropriation bill it can be taken out again. It cannot be taken out again. It cannot be taken out as to any judge that comes in under that appropriation.

Mr. MACVEAGH. It seems to me that the assumed correction of the gentleman from Philadelphia illustrates the utterly untenable character of his position. If the gentleman be correct in his statement, then this system is to apply inequitably, because the salaries of the judges that happened to be elected before this annual increase of the appropriation bill will be diminished. Judge Agnew certainly will be affected in that way.

Mr. WOODWARD. It was the same motion.

Mr. MACVEAGH. No; it was not. This will result in glaring inequality on the gentleman's own statement. Judge Agnew certainly will be in a very different position from Judge Mercur and Judge Gordon. Certainly the one is within the constitutional provision, as I well know; the other is not within the constitutional provision, and no judge can claim a larger salary under the Constitution as it now exists than was accorded him at the time of his election. The accident of a larger annual appropriation gives no constitutional sanction to that appropriation. All that I desire is that the Convention shall look this matter squarely in the face, and recognize precisely where we are. There is nothing in this Constitution that makes the accident of an appropriation the measure of the salary of any judge, except judges elected after the appropriation was made. Therefore it is of the gravest importance that this subject should be avoided, and at the same time the better way and the fairer way is for us to declare solemnly that the salaries of the judges shall not be increased after their election, and that this matter should be remitted to the Legislature to frame a general law in full view of all the contingencies surrounding the question, and of all the considerations proper to affect their judgment. I cannot imagine how that can do any harm; but to leave it to the hazard of the accident of a date and the relation of that date to the appropri-

ation bill, seems to me to be very dangerous.

Mr. WOODWARD. While I do not differ with the general views of some of the gentlemen who have spoken on this subject, I want the Convention to understand the facts as they exist. Our present Constitution provides that:

"The judges of the Supreme Court and the presidents of the several courts of common pleas shall, at stated times, receive for their services an adequate compensation to be fixed by law, which shall not be diminished during their continuance in office."

That is our present Constitution. I submit that the appropriation bill which increased the salary of a judge never could diminish that salary whilst that judge remained in office under our present Constitution; and when gentlemen tell the Convention that the appropriation bill is an annual and a changeable piece of legislation, they forget that under this Constitution the salary of a judge, whether it is in an appropriation bill or any other bill, cannot be reduced during his continuance in office, nor has it been. There never has been a single instance in Pennsylvania that I know of.

Mr. DARLINGTON. Not even by taxation.

Mr. WOODWARD. Not even by taxation. It cannot be. Why, we are fighting shadows here.

The tendency of judicial salaries has been to grow up, not down; in all time. In 1841 the president judges of the common pleas were paid \$2,000 a year. In 1852 the judges of the Supreme Court were paid \$1,600 salary and \$3 *per diem* for the time actually spent in court, which amounted to about \$900 a year, and added to the \$1,600 salary made \$2,500. Well, from that root it began to grow, and in 1867—"I speak of that which I do know and testify of that which I have seen"—in 1867 it had grown to \$5,500, and it has been growing ever since.

Mr. CORBETT. It is now \$7,000.

Mr. WOODWARD. Very well. So that, starting from \$1,600 in 1852, when I went on the bench of the Supreme Court, it is now \$7,000. These increases have all been in the appropriation bills, and these judges have come in under these appropriation bills, and you cannot change them. There is nothing in the fact that the addition is in the appropriation bill. The Constitution says their salaries shall be fixed by law. An appropriation bill

is a law, and if it fixes the judicial salaries, and I tell you they cannot be diminished during the judge's term of office.

The logic which my friend from Dauphin applies to this section is very good logic; but it has nothing to do with the case. It overlooks the existing Constitution and the history of judicial salaries, which, I tell you, have been growing in our time. Their tendency is to grow, and they will grow in future. No gentleman need be concerned about judges being paid—I will not say what they ought to be paid—but being paid more than they have been accustomed to be paid.

Mr. KAINE. The argument made by the gentleman from Philadelphia, and for the reasons given by him, I believe is according to the view generally entertained on this question; that although the Legislature may, by general law, have fixed the salaries of the several judges of the courts of the Commonwealth, yet if in the very next year the Legislature puts into the appropriation bill an increase of those salaries, that increase is fixed during the term of office of those judges. I believe that that has been the general opinion entertained on this subject, although I myself dissent from it, and I think it should not have prevailed; and it was with a view of putting up that practice entirely that I voted for and advocated that clause now in the new Constitution, that the salary of judges should neither be increased nor diminished during their continuance in office.

The last general law I believe upon the subject of salaries was passed in 1866. The salary of the supreme judges was then fixed at \$5,500, that of the judges in Philadelphia and Allegheny county at \$5,000, and that of the judges of the several districts throughout the Commonwealth at \$3,500. That is the act of the eleventh of April, 1866. Since that, I know very well that in the appropriation bills the salaries of the judges of districts of the Commonwealth have been fixed at \$4,000, and next year, unless some limitation may be placed upon it, we may have them at \$5,000. Now, I care not how this schedule may be arranged upon this subject; but I want, so far as my vote is concerned, to preserve intact the Constitution as we have adopted it. Fix the salaries as high as you please, but make them equitable, and let them be salaries for the time and duration of each judge's continuance in office, not have it \$5,000

this year and \$6,000 next year, and so on until the end of the term. I say make it big enough in the beginning and let it remain until the end.

Mr. D. W. PATTERSON. I desire to remark briefly that I am in favor of this section, and in favor of it whether the amendment proposed by the gentleman from Columbia prevails or not. It is not inconsistent with the section, for this section allows the Legislature to review and fix the salaries. They will have to pass a general law in regard to the judges who will fill the new judicial districts provided for under this Constitution, and they are very competent to do it. My friend from Columbia says that he does not want the Legislature to open up this question, and in the next breath admits that the salaries are judicious and proper.

I would ask what authority has fixed the salaries heretofore, save the Legislature, which has always done it. They have had the power to do so, and we all admit, with the gentleman from Columbia, that the power has been exercised judiciously. And yet, at the same time, he expresses a horror of referring this question to that body in the future, which seems strange to me. It is true, as the honorable delegate from Philadelphia has said, that the Constitution prohibits the diminution of these salaries during the term of any judge. But does that constitutional provision apply to anything else than the act of the State, the act of the Legislature? If it means State here, the judges in some part of the State get salary beside and over what the Legislature has provided, in the cities of Philadelphia and Pittsburg, and of course this constitutional provision, of itself, would not bind these cities that give their judges additional salaries. The binding operation of this provision would only apply to the action of the State and not to the municipality. It is the opinion of gentlemen on this floor that the salaries of the judges in these cities should not be reduced, and hence it is that we want the Legislature to consider the question and say whether they will give from the State Treasury an additional salary, as much as is now given by the cities, because under our new Constitution we have, and very justly, prohibited any city or municipality from giving an additional bounty to any judicial officer of the State. I think that provision should prevail, and of course it will prevail if this Constitution be adopted, and

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not allow any city or municipality to increase the salary of a judicial officer adjudicating between that municipality and its citizens and other citizens of the Commonwealth. For that reason it seems to me that we should leave the Legislature, at its first session, to consider this whole subject. They have done it wisely, even by the admission of my friend from Columbia, heretofore, and it seems to me that we ought to submit the question to them in the future to arrange it before this new Constitution goes into effect.

Mr. ARMSTRONG. The language of the present Constitution is this:

"Judges of the Supreme Court and the presidents of the several courts of common pleas shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office."

I hold in my hand the latest edition of *Purdon's Digest*, and in volume two, page 1301, it is enacted:

"The annual salary of the judges of the Supreme Court shall be as follows: The Chief Justice, \$3,000; the associate judges, \$2,800. The salary of the judges of the district court, the president and associate law judges of the court of common pleas of the county of Philadelphia, \$2,000 for each judge.

That is in the twenty-seventh section. I do not read any section at length, and I find this note appended to the clause:

By the act of April eleventh, 1866, the salary of the judges of the Supreme Court was increased to \$5,000. Of late years the salaries of the judges have been fixed by the annual appropriation bill, and by the act of 1872 they are allowed \$7,000 per annum in lieu of all daily pay, mileage and other expenses. This practice appears to be in direct contradiction of the provisions of the fifth article of the Constitution."

Now, look at the appropriation bill. The appropriation bill of 1873, which I hold in my hand, provides:

"Be it enacted, &c., That the following sums be and they are hereby specifically appropriated to the several objects herein named for the year commencing on the first day of June, A. D. 1873."

Then follows the general appropriation to the judges in this form: "For the salary of the judges of the Supreme Court the sum of \$35,000, or the sum of \$7,000 to each judge for the present year;" and so on.

I cannot assent to the suggestion of the learned chief justice, (Mr. Woodward,) from whom I differ with great reluctance. I only differ when I cannot possibly agree. My friend on the right (Mr. Corbett) informs me that his honor, Chief Justice Black differs from the distinguished chief justice to my left. Nevertheless, I take it that the true construction of the clause of the old Constitution is that the judges' salary shall not be diminished; that is, the salary which they receive at the time of their election becomes a vested right under the Constitution which cannot be taken away by taxation or otherwise; but there is nothing in that which prevents the Legislature from extending to them a beneficence, an act of charity, if you please, great or small, for one year or for more. But it is quite sufficient for the purpose of this argument to know that there is great doubt upon the question, and we are now making a new Constitution which is to take the place of the old, and as respects this question we should not leave it open to doubt. I believe it would be wiser if we could leave this whole question of salary to the discretion of the Legislature as it was left in the old Constitution. But the Convention have thought differently and we submit to their judgment on that question; but we may safely entrust to the Legislature to adjust the salaries of the judges upon a basis which shall place them all upon the same level; and I take it that is the whole effect of the section now under consideration. It will enable the Legislature to fix a starting point, that all the judges who take commission under the new Constitution shall have the amount of their salary definitely determined. It would not prevent the Legislature from increasing or diminishing the salary as respected a future judge not yet elected, because that would come under another provision of the Constitution. But there is no probability that it would be diminished, and I apprehend that my friend on the right (Mr. Woodward) never thought the judges got too much as long as he was on the bench, and I am very sure they did not; and he does not think so now.

Upon this question, as I take it, the whole matter that is before us in this section is to remove any possible doubt on the question of construction and to establish a uniform starting point by which all the salaries shall be equally and properly adjusted, so that no one judge in any part

of the Commonwealth will receive greater or unreasonable compensation above another.

Mr. J. N. PURVIANCE. I would ask the gentleman from Looming, cannot the Legislature, without any action of the Convention, adjust all these salaries whenever they wish to do so?

Mr. ARMSTRONG. I think they cannot, because they are expressly prohibited by the fifteenth section of the article on legislation, which declares that:

"No law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment."

Mr. J. N. PURVIANCE. Then what is the difference here.

Mr. ARMSTRONG. This section makes a difference, because it expressly provides that the fifteenth section of the article on legislation shall not be inconsistent with this.

Mr. CORBETT. Mr. Chairman: If I supposed trusting the adjustment of the salaries of the judges of the courts of this State to the Legislature at its next session would tend to decrease them, I should not support a proposition of the kind; but I am decidedly in favor of allowing the Legislature, at its next session, to regulate the salaries of the judges, because I believe they will not be reduced. Now, that the fifteenth section of the article on legislation is in the shape it is, is no fault of mine. It is there, and it is there at the instance of a gentleman who occupied a very high position on the supreme bench of Pennsylvania. You had from him a history of the way the salaries of the judges have been regulated, but that gentleman held to the doctrine that the Legislature had no right to make a mere temporary appropriation for any one year increasing the salary; and he at one time, I believe, returned his salary, or at least he so stated, because he had constitutional doubts as to the propriety of it; he believed it was unconstitutional.

I opposed the insertion of the word "increase" in the fifteenth section of the article on legislation, because, I think the judicial salaries have never been beyond the amount that they should be. There never has been any abuse in that direction. I think that ought not to have been inserted in the fifteenth section of the article on legislation, but it was there and I am now decidedly in favor of leaving the Legislature at its next session to regulate

the salaries of the judges, confidently believing that they will not be decreased. And with reference to Philadelphia and Allegheny counties, the judges of which counties have been receiving an appropriation out of the county treasury, it will allow the Legislature to regulate the salary and increase it so that it will be just and reasonable. I therefore shall vote for the naked section allowing the Legislature at its next session to regulate these salaries, believing that they will not be decreased because I think they should not be decreased.

Mr. WOODWARD. Mr. Chairman: I had no inclination at all to speak on this one question; but in answer to what has been said about the legal proposition, I wish to say to my friend from Allegheny county (Mr. S. A. Purviance) what he reminded me of, that I believe the Supreme Court have settled this question; they have decided it so that the fine drawn logic of gentlemen here is quite out of place. They have decided, Judge Rogers delivering the opinion of the Supreme Court, that a judicial salary increased by an act of special legislation cannot be reduced during the term of that judge. That is the settled law now. What use is it for gentlemen to argue that the appropriation bill is not a fixing of the salary for that year. It does fix it for that year undoubtedly, and that is what the Constitution says the Legislature shall do. Judges shall be paid a sum to be fixed by the Legislature; but when the Legislature have once fixed it they cannot unfix it as to that judge, and that was the decision of the Supreme Court. Gentlemen may quote Judge Black or anybody else. I have learned long since to distrust these verbal reports. Judge Black never decided anything so absurd as the gentleman from Clarion says, and I should like to see the evidence of it. I do not believe he ever did.

Whatever disposition may be made of this subject, do not let us dispose of it upon the principle that has been offered to you by the fine drawn logic that an appropriation bill is not a fixing of the salary of a judge. I do not care whether it is fixed in an appropriation bill or in a general law or in what way, it is fixed by the act of the Legislature, and then says the Constitution it shall not be interfered with during the life time or the term of that judge.

Mr. HOWARD. Mr. Chairman: What is the question?

The CHAIRMAN. On the adoption of the twenty-second section.

Mr. HOWARD. I am opposed to the section as reported, and I move to amend by striking out all after the word "Commonwealth" in the third line.

If I understand this twenty-second section, it is intended really to repeal the fifteenth section of the article on legislation. That is the object of it. This Convention settled, after a long debate, that the salary should not be increased or diminished, and this provision seems to be inserted for the purpose of repealing that provision, by saying that there shall be no construction inconsistent with this provision: "The General Assembly, at the first session after the adoption of this Constitution, shall fix and determine the compensation of the judges of the Supreme Court, and of the several judicial districts of the Commonwealth, and the provisions of section fifteen of the article on legislation shall not be deemed inconsistent herewith." It is inconsistent and squarely inconsistent with that provision which says:

"No law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment."

Now, I hope the Convention mean to adhere to the fifteenth section of the article on legislation that was inserted after long debate, that was thoroughly canvassed in Convention, that was discussed *pro* and *con* by delegates in view of the fact that officers, and especially judges, after their election to office, commence importuning the Legislature to increase their salaries. We know they do it. They have done it in the past, and they will do it in the future; and if they cannot get an appropriation from the State they will get it from the city or county treasury. It was for the purpose of meeting this difficulty that we provided that the salary should not be either increased or diminished, so that when they took the office they would know what the salary was to be. They are to be dealt perfectly fairly by. They know when they take their nomination or when they take the office that the salary is to be so much; the Legislature cannot put their hands upon it again during their continuance in office, and it seems to me it would be right to strike out the words that I have indicated and then the rest of the section would stand, and it would read:

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of the Commonwealth will receive greater or unreasonable compensation above another.

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"No law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment."

Now, I hope the Convention mean to adhere to the fifteenth section of the article on legislation that was inserted after long debate, that was thoroughly canvassed in Convention, that was discussed *pro* and *con* by delegates in view of the fact that officers, and especially judges, after their election to office, commence importuning the Legislature to increase their salaries. We know they do it. They have done it in the past, and they will do it in the future; and if they cannot get an appropriation from the State they will get it from the city or county treasury. It was for the purpose of meeting this difficulty that we provided that the salary should not be either increased or diminished, so that when they took the office they would know what the salary was to be. They are to be dealt perfectly fairly by. They know when they take their nomination or when they take the office that the salary is to be so much; the Legislature cannot put their hands upon it again during their continuance in office, and it seems to me it would be right to strike out the words that I have indicated and then the rest of the section would stand, and it would read:

"The General Assembly at the first session after the adoption of this Constitution shall fix and determine the compensation of the judges of the Supreme Court and of the several judicial districts of the Commonwealth."

Then this other provision in the article on legislation would come in saying that no law shall extend the term of any public officer or increase or diminish his salary.

The CHAIRMAN. The question is on the amendment of the delegate from Allegheny (Mr. Howard.)

Mr. SIMPSON. Mr. Chairman: I shall vote against the amendment of my friend from Allegheny and I shall vote against this section for the reason that I think the proposition of the gentleman from Columbia is the fairest and the best. We have provided in other parts of the Constitution that officers now elected or in commission shall not be interfered with in their fees and arrangement of office until their commissions shall expire, and believing that the intent of the members of this Convention is that the judges shall not be made an exception to that rule, I shall vote not only against this amendment but against the section and for the proposition of the gentleman from Columbia when it shall be offered to take the place of the section, and I trust the Convention will agree with him, in saying that no judge now in commission or upon the bench shall have his salary reduced either by the next Legislature or by any other Legislature, but that each of them shall hold his position and the amount of emoluments that has heretofore been assigned to him for his service, as long as his commission shall last.

Mr. HARRY WHINE. Mr. Chairman: It appears to me that we are arguing this question on the principle of a distinction without a difference. Now, I have very little preference on this subject. When I first read this section last night, it seemed to me that it interfered with and indirectly repealed the fifteenth section of the article on legislation. It does not do so I discover on more careful investigation. The only purpose of this section, on a careful reading, it will be seen, is to relieve any doubt that may exist in the legislative mind as to their power to fix the salaries of the judges.

Now, with all deference to the judgment of every gentleman on this floor, I would say that there is no rule of law, no principle of the Constitution, no decision

of the Supreme Court that I have been familiar with, which would prevent the Legislature at its next session from providing for the payment from the State Treasury of every dollar of salary that every judge in this Commonwealth receives at this time, I care not in what form. I think it perfectly competent for the Legislature to appropriate from the State Treasury the two thousand dollars or the extra sum, whatever it may be, which is received from the municipal authorities by different judges.

I am very indifferent on this subject. It seems to me if delegates will pause and reflect they will see that there is but little difference between all the propositions offered. The amendment offered by the delegate from Allegheny I shall support, because I think the words which he moves to strike out are possibly superfluous, and striking them out does not alter the sense of the section.

I cannot take my seat, however, Mr. Chairman, without reprobating in all kindness the criticism which the gentleman from Allegheny who last spoke made against the different judges of this Commonwealth. He made the observation that a judge is hardly elected until he comes before the Legislature for an increase of his salary. Now, I have too much regard for the reputation of the judiciary of this Commonwealth to let this remark go unrebuked. I am afraid my friend in his zeal and earnestness has been betrayed into an inaccuracy. I do not believe that the judges of this Commonwealth impudently or lobby members of the Legislature to affect their salaries. Indirect remarks may be made here and there by some personal friends. The movement in behalf of the increase of salaries of judges generally comes from some gentleman, a member of the bar who happens to be a member of the lower House or Senate, to procure the favor possibly of the particular judge or of the courts; but I do rebuke the remark. I do not want it to go upon our Journals uncontradicted, that the judiciary of this Commonwealth are in the habit of beseeching the Legislature for increase of salary.

Mr. LILLY. I should like to hear the amendment of the gentleman from Allegheny read.

Mr. HOWARD. Will the delegate from Indiana permit me to ask him a question?

The CHAIRMAN. The delegate from Carbon has the floor, and he asks for the

reading of the amendment. It will be read.

The CLERK. The amendment is to strike out all of the section after the word "Commonwealth," in the third line.

Mr. LILLY. Now, Mr. Chairman, what I desire to get at in this matter, and I wish it to be put in as few words as possible, is that the judges of Philadelphia and the judges of Pittsburg, and the judges all over the State, shall receive hereafter the same compensation from all sources under the law of the Commonwealth that they receive at present. I do not want a provision put into the Constitution that they shall receive the same salary and then have a construction put upon it which shall reduce the actual salaries of the judges in Philadelphia to \$2,500. I want it put in such language that everybody shall understand it and there will be no trouble about it hereafter. As I have said heretofore, I think the judges of the Commonwealth of Pennsylvania are paid little enough now.

The gentleman from the city (Mr. Woodward) says that since the year 1852 the salaries of the judges have been increased three-fold. So they should have been, because the cost of living and everything else has gone up four or five times as much as it was then. I recollect that at that time I was receiving but \$300 or \$400 for my services, but I remember that everything else was in that proportion all over the State. But, sir, we now live in a different age, under a different state of affairs entirely. I recollect perfectly well that in 1851 I paid \$4 a week for board at the best hotel in Harrisburg; now I have to pay \$4 50 a day here. The compensation paid to judges in 1851 and 1852 was not one-quarter what it ought to be now. I want this matter fixed so that we shall understand and everybody shall understand that the judges are not to receive anything less from all sources than they receive now.

The CHAIRMAN. The question is on the amendment of the delegate from Allegheny (Mr. Howard.)

The amendment was rejected.

The CHAIRMAN. The question recurs on the section.

The section was adopted.

Mr. BUCKALEW. Now I move to add the amendment I offered a short time since to the section :

"Nothing contained in this section shall be held to reduce the compensation now

paid to any law judge of this Commonwealth."

Mr. ARMSTRONG. I hope the amendment will be adopted.

Mr. LILLY. Does that cover their compensation from all sources?

Mr. BUCKALEW. Certainly.

Mr. LILLY. If it includes the compensation paid to the judges in Philadelphia and Allegheny by their respective counties, then I am in favor of it.

Mr. LITTLETON. I move to amend the amendment so that it shall read "the compensation now received from all sources." ["No." "No."] I withdraw it.

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

Mr. DARLINGTON. Do I understand that this amendment is intended to continue the salary that the judges of the city of Philadelphia now receive?

Mr. CURTIN. To be paid by the State.

The CHAIRMAN. The amendment will be read again.

The CLERK read the amendment.

Mr. DARLINGTON. Now, Mr. Chairman, if the purpose and intention of this amendment is to transfer the liability from the city to the State to pay \$7,000 to each of the judges who now receive \$5,000 from the State, I am opposed to it. I want that explicitly stated now by somebody who has this matter in charge. If that is the design of it, let us vote understandingly.

Mr. BUCKALEW. The single office of this amendment is to say, and say imperatively, that the amount now paid to the several law judges shall not be reduced. It goes no further. It settles no other question, and here in the schedule we ought not to settle any other. The question which the gentleman raises is upon the section in the judiciary article or some other part of the Constitution about how salaries shall be paid. That is left untouched. All that we say here is that the judges shall receive as much as they do now; I do not care whether it is paid wholly by the State or paid by the State and city. That has nothing to do with this question. I ask simply that the Convention say that they shall receive what the public contracted with them, when they took their offices or since, that they should have.

Mr. HOWARD. I am opposed to this amendment. I can see no reason why judges should be made an exception to the general rule provided in section fifteen of the article on legislation. I can

see no reason why we should say in the Constitution that their salaries shall never be diminished below what they are now receiving. The time may come when it would be desirable, perfectly right and proper, to reduce them. If things are reduced to the gold basis, their salaries ought to be reduced to correspond with other wages and other compensation in the State. I think it is unfair to select out the judges in this way. Other officers are just as meritorious as they are.

I desire to say one word in reply to the delegate from Indiana. I made the assertion that judges were generally anxious to have their salaries increased. No longer ago than 1871, all the president judges, all the law judges of this State, signed a petition and had it presented to the Legislature asking for an increase of their salaries. If I held a place and the salary did not suit me, I would resign. I would not ask that my salary should be increased while I held the office. If the salary did not suit me I would withdraw from the office; and that is the proper course to take. The delegate from Indiana does not need to defend the judges. I made no attack upon them and no reflection upon them. The judges are no worse than others and no better. Every other officer has been at this same business. No sooner were they elected to office, they were hardly warm in their seats, until they were at Harrisburg to change their compensation; if they were aldermen, a change of the fee bill; if constables, a change of the fee bill; and so with registers, so with recorders, so with sheriffs, so with all your officers. They have some change slipped through at Harrisburg by which their fees are enormously increased. I am opposed to this amendment.

Mr. HARRY WHITE. Do I understand the delegate from Allegheny to make the charge that the judges of this Commonwealth have been in the habit of boring the Legislature for an increase of their salaries?

Mr. HOWARD. Oh, no; I mean just what I said, that they asked to have their salaries increased.

The CHAIRMAN. The delegate will keep order. The question of the delegate from Indiana is out of order.

Mr. BEEBE. I desire briefly to say that I trust this amendment will prevail. The principle contained in it is a proper one, and I trust the Convention will agree with me.

Mr. DARLINGTON. I move to amend the amendment by inserting after the word "paid" the words "by the State," so that it will read:

"Nothing contained in this Constitution shall be held to reduce the compensation now paid by the State to any law judge of this Commonwealth."

The amendment to the amendment was rejected.

The CHAIRMAN. The question now is on the amendment of the delegate from Columbia.

Mr. BROOMALL. I desire to know whether the purpose of this amendment is not to give the law judges in Philadelphia and Pittsburg two thousand dollars more out of the State Treasury than the judges of the rest of the State.

SEVERAL DELEGATES. Yes; that is it.

Mr. BROOMALL. If that is the case I am opposed to it.

The amendment was agreed to, there being on a division, ayes forty-six, noes sixteen.

Mr. HOWARD. Now, I move to amend the section so that it shall read that the salary of no officer shall be diminished. The amendment was rejected.

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

The section was agreed to.

Mr. WOODWARD. I desire to state that I propose to ask the Convention to go back to the sixteenth section, which I am afraid has been passed, and reconsider it; but I do not care whether I do it now or hereafter.

The CHAIRMAN. The Chair will suggest to the gentleman that he can make that motion hereafter.

Mr. WOODWARD. When the article is finished, I shall desire to call the attention of the Convention to that section.

The CLERK read the next section, as follows:

SECTION 23. The courts of common pleas in the counties of Philadelphia and Allegheny, shall be composed of the present judges of the district court and court of common pleas of said counties, until their commissions shall severally expire, and of such other judges as may from time to time be selected.

For the purpose of first organization in Philadelphia, the judges of the court number one, shall be Judges Allison, Pierce and Paxson; of the court number two, Judges Hare, Lynd and Mitchell; of the court number three, Judges Ludlow, Finletter, and one other judge to be

electd; and of the court number four, Judges Thayer, Briggs, and one other judge to be electd.

The judge first namd shall be the president judge of said courts respectively, and thereafter the president judge shall be the judge oldest in commission.

The additional judge for courts numbers three and four shall be electd at the first general election after the adoption of this Constitution, and their term of office shall commence on the first Monday of January, 1875.

Mr. BIDDLE. I offer the following amendment as a substitute for the second paragraph :

"For the purpose of first organization in Philadelphia, the judges of the court number one shall be Judges Allison, Finletter, and one other judge to be electd; of the court number two, Judges Hare, Lynd and Mitchell; of the court number three, Judges Ludlow, Peirce, and one other judge to be electd; and of the court number four, Judges Thayer, Paxson and Briggs."

The Committee on Schedule have changd, and properly in some respects, the apportionment of the judges in Philadelphia in the following way: They ascertaind, no doubt, for it is so, that Judge Allison's commission was prior in point of time as president judge to Judge Hare's, and they very properly put him in court number one as the president of that court, putting Judge Hare in number two; but in other respects they have alterd the schedule as submitted by the Committee on the Judiciary, and in my opinion without any advantage. That schedule was as follows: Judge Thayer, Judge Paxson and Judge Briggs were given one court; Judge Allison, Judge Finletter and a new judge another court; Judge Ludlow, Judge Peirce and a new judge the third court; and Judge Hare, Judge Lynd and Judge Mitchell the other court. There was an advantage in having it in that way because there was then placd with the judges of the district court a judge of the common pleas. The judges of the district court, as we all know, have heretofore had exclusively common law jurisdiction of a very limited kind; they have never even issued a writ of *habeas corpus*; and there was an advantage in placd with those judges a judge of the other court who would be familiar with the routine of our court of common pleas. For some reason which I do not understand, in the pres-

ent schedule all the judges of the present district court are placd together and all the judges of the courts of common pleas are placd together, thus depriving us of the advantage of an intermingling of the judges of the different courts. Whilst retaining the principle of priority so as to give Judge Allison the presidency of number one, Judge Hare the presidency of number two, Judge Ludlow the presidency of number three, and Judge Thayer the presidency of number four, which was in the old schedule, I have endeavord by this substitute to obtain the advantage which was given to us by the article on the judiciary by placd the judges of each court together so far as we could. I hope this substitute will be adoptd.

Mr. CUYLER. I am not with the delegate from the city (Mr. Biddle) in his amendment. I like the section proposd in the schedule better than I do his amendment. I see no particular force in the suggestion of mingling the judges together, and no advantage to be derivd from it. So far as my knowledge of these judges and the composition of these courts is concernd, I think the scheme proposd in the schedule is the best. I therefore am opposd to the amendment.

Mr. J. R. READ. I trust, Mr. Chairman and gentlemen of the Convention, that this section of the schedule will be retaind just as it is. I think the organization of the courts has been very carefully provided for. It keeps together those judges who have been heretofore associatd together. One of the arguments usd against the adoption of the section in the Constitution heretofore adoptd, was that it might bring gentlemen together who had not been associatd together. The Committee on Schedule have very carefully arrangd it by providing that court number one and court number three shall be held by the judges of the present court of common pleas, and that court number two and court number four shall be held by judges of the present district court. It is idle to say that it is necessary to have any of the judges of the court of common pleas, as now constituted, in these new organizations because they are familiar with the criminal practice of the court. It has been urgd that it was necessary on that ground to bring all the judges of the district court into the criminal court. That seems to me to be no argument whatever. If the judges are competent to hold a criminal court, they are competent, by

reason of the knowledge that is within them, and not from what they will acquire from their associate judges, who have held the criminal court heretofore. As this subject has been gone over very carefully by the Committee on Revision, I trust the Convention will not now change it to oblige the gentleman from the city.

The CHAIRMAN. The question is on the amendment of the gentleman from the city (Mr. Biddle.)

The amendment was rejected.

Mr. BIDDLE. I have another amendment to offer, as a substitute for the last paragraph:

"The additional judges for courts numbers — and — shall be voted for and elected at the first general election after the adoption of this Constitution, in the same manner as the two additional judges of the Supreme Court, and they shall decide by lot to which court they shall belong. Their term of office shall commence on the first Monday of January, 1875."

Mr. LITTLETON. I rise to a point of order. This changes a provision of the article on the judiciary, as I understand, and therefore, according to the ruling of the House made this morning, I do not suppose it to be in order at the present time.

The CHAIRMAN. The Chairman of the committee of the whole is of the opinion that it is in order as it is a substitute for that which is now before the committee.

Mr. BIDDLE. There are two purposes, Mr. Chairman, to be attained by this amendment. As to one, I presume there will not be the slightest difference of opinion; and that is that the judges must decide by lot to which court they shall belong. There must be some provision by which the two judges to be elected must be assigned to the two vacant courts, whatever they may be; I have left the numbers blank.

In regard to the other part of the amendment, as there are but two judges to be elected, it seems right and proper that we should apply to the election of those judges the same principle that we have applied to the election of the two additional judges of the Supreme Court; that is to say, to allow them to be elected so that both parties shall be represented in the court. We all know that as the courts of this city are constituted now, out of the ten existing judges there is but one belonging to one of the two par-

ties which we are obliged to recognize here, and nine to the other. The effect of this amendment will be to make them stand two to ten, and I hope gentlemen will not make any objection.

Mr. HANNA. I have great respect for the opinion of my colleague from the city, (Mr. Biddle,) but really I cannot agree with him in this particular. In the first place, his amendment provides a distinction between the judicial system of Philadelphia and that throughout the Commonwealth. We nowhere else provide for the election in this manner of judges of the common pleas. We have provided in section seventeen of the article on the judiciary that when two or more judges of the Supreme Court, or when two or more judges of the court of common pleas in the same district are elected at the same time, they shall cast lots for priority of commission. There is a general principle in regard to the judges of the common pleas; but we have nowhere in the Constitution provided that in case two or more are to be elected, they shall be elected on the limited vote, and I see no reason why that should be applied to the county of Philadelphia.

Again, with respect to the objection raised by my colleague in regard to the nomination of these two judges and their election, there is no trouble about that. It is provided here distinctly that the judges for courts number three and four shall be elected for those courts respectively. They will be nominated by the conventions as "judge of court number three" and as "judge of court number four." They need not cast lots for the court in which they shall serve. They will be distinctly elected for those respective courts.

Now, in regard to the principle itself I hope it will not be inserted here and applied only to the county of Philadelphia. If our common pleas judges are to be elected in the same way that judges of the Supreme Court are to be elected, let us apply it to the whole Commonwealth and not to one county and one judicial district alone. I hope therefore the amendment will not be agreed to.

Mr. CUYLER. Mr. Chairman: Before this court comes the decision of all contested election cases, and they are numerous and important in the county of Philadelphia. I have before spoken in the Convention of the perils which surround these cases and of the fact that, no matter how pure and upright the judge may be, his decision is always anticipated, and the

people are able to say in advance precisely how every question of a political character will be decided. Prophecy on this question is hardly ever at fault in this county. This is a lamentable fact, but it is a fact.

Now, Mr. Chairman, at best one party will get the poor boon of having two out of twelve judges in this county under this amendment. Can anybody complain of that? Can anybody see anything unreasonable in that? Are not ten out of twelve enough for the majority party? Why should eleven be insisted upon? I do appeal, in the name of political fairness, to the Convention to adopt this amendment just as it is proposed by my colleague (Mr. Bidule). There are important reasons why there should be a distinction between this county and other counties in the State on this question. The magnitude and number of the cases arising in this county constitute one of those reasons, and I hope therefore that the amendment of my colleague will prevail.

Mr. LITTLETON. I desire to controvert the statement made by my friend from Philadelphia (Mr. Cuyler.) It is not the invariable rule that judges of the courts in Philadelphia decide according to their political predilections at all, because the late Mayor of Philadelphia, Mr. Fox, held that position by virtue of the judgment of a court composed of a large majority of Republicans on the bench. His election being contested, those judges did not hesitate to give him his place when they thought he was entitled to it.

My objection to this provision is that it establishes a different rule in Philadelphia from that which prevails in other parts of the State and establishes it by an edict of this Convention, not by the direct voice or vote of the people, because you are adopting in the schedule a plan which you do not submit to the popular vote separately. Now, if it is intended that the people of Philadelphia or of any other portion of the State shall elect their judges in a manner different from that at present in operation, the provision for such change should be incorporated in the Constitution itself and you should not attempt to arbitrarily enact it here. I think, therefore, this proposition is utterly out of place, and as I stated before I really think it is out of order, because it does change the rule which we have already adopted in the article on the judiciary upon this very subject. I trust for

that reason, if for no other, the amendment will be voted down.

Mr. CUYLER. If the rest of the State want this amendment, I have not the slightest objection. I am only speaking as a Philadelphian for what Philadelphia requires, and I again assert, my friend on the other side to the contrary notwithstanding, that there are no political causes which arise in the city of Philadelphia in which gentlemen do not predict with almost absolute certainty what the result of the case will be. I mean no imputation of unfairness in the judges; but nevertheless I aver that that is the fact. We have seen the Supreme Court of the State trample upon and disfranchise whole election districts in this county in the case of Mann vs. Sheppard for the purpose of electing one over the other, where no sensible man doubted where the majority of the votes in this county had really been cast.

Mr. ARMSTRONG. Mr. Chairman: In a question so delicate as that of the judiciary, it is with great reluctance that I refer to anything that has a political bearing, even in the slightest degree; and yet it is well known to the gentlemen of this Convention that there is but one Democrat among the judges on the Philadelphia bench. The effect of this amendment would be that there would be two judges for this city elected on the precise plan that we have applied to the Supreme Court. If the result of that should be to get one Democrat and one Republican on the bench of this city, I should be, personally, heartily in favor of it. I see no objection to the amendment, and I hope it will be adopted.

Mr. HANNA. I desire to ask the gentleman from Lycoming a question. I ask him whether the Republican majority of Philadelphia is not to be considered as well as the Republican majority of Allegheny.

Mr. ARMSTRONG. The principle adopted by this Convention was, that where there was more than one judge of the Supreme Court to be elected at the same time, the judges should be voted for in such manner as to render it possible to elect one of each political party. I believe that is eminently wise and proper. The more we can eliminate politics from the bench, the better it is for all suitors and for the State at large.

Mr. BAKER. My learned colleague (Mr. Cuyler) does manifest injustice to himself and to the judiciary of Philadel-

phia in his remarks, which are of a general character and need qualification. I need only refer to the celebrated case of Furman Sheppard and Charles Gibbons. The latter gentleman had received the returns as the duly elected district attorney for the city and county of Philadelphia, and had attended to the duties of the office for some time. Mr. Gibbons' right to the office was contested by Mr. Sheppard, and after a patient and exhaustive examination of the facts in the case the court unanimously awarded the office to Mr. Sheppard, the Democrat, there being at the time a majority of Republicans on the bench. This, sir, is a matter of record, and is conclusive, and the end of controversy. I might also refer to the case of Mayor Fox, but my colleague (Mr. Littleton) has already spoken of that.

Mr. BUCKALEW. In the first place, this is the only case where this Convention adds two judges to the same jurisdiction. There is no other case in the Commonwealth, and therefore the application of this amendment to the judges in Philadelphia is not invidious. On a former occasion the gentleman from Montgomery (Mr. Hunsicker) had an amendment pending to apply to the judges of the Supreme Court and these proposed judges in Philadelphia this principle. At that time it was suggested that we had not yet determined the question of the reorganization of the courts in this city, and therefore he withdrew that portion of his amendment which related to Philadelphia judges and confined it to the new judges of the Supreme Court. Now, the question comes up distinctly whether we shall restore his original proposition in the form in which it was offered by him.

In addition to other considerations, we are following precedents in the State of New York and in the State of Illinois, where the first judges elected under the amended Constitution were divided in this manner. This proposition expends itself on the first election of these two judges for whom we propose to add a constitutional provision, and will not affect future elections in this city.

Here let me say that this is one of the most politic provisions that you can put in. Your new Constitution will offend masses of men in this city. There will be large antagonism to your Constitution. If you add a provision that the political majority shall have two judges added to their present power here, it will render the Con-

stitution still more open to opposition by one of the political parties of Philadelphia, whereas on the other hand this provision will conciliate support in this city of Philadelphia to your work generally. It will be regarded as a fair, magnanimous and proper arrangement in reference to these new judges whom we are adding to the common pleas of this city, leaving the political majority here with ten and the minority with two judges.

Mr. SIMPSON. Mr. Chairman: If my friend (Mr. Biddle) will further amend his amendment by transposing Judge Lynd or Judge Mitchell or Judge Pierce for Judge Paxson into a court of another number, I will vote for his proposition.

Mr. BIDDLE. Allow me to say to the gentleman that the question now is on the last paragraph, not on the section. My amendment is a substitute for the last paragraph of the section.

Mr. SIMPSON. I am aware of that; but the effect of that amendment if adopted might possibly result in having one court in Philadelphia not in conformity with the feelings of the political majority of the city. That I do not propose to have. I want the majority of the people of Philadelphia to have a majority in each of the courts, though I am willing that the minority shall have a representation; and if my friend will modify his amendment by putting either Judge Lynd or Judge Mitchell along with Judges Ludlow and Finletter in the same court, I will then vote for his amendment; otherwise I cannot do so.

Mr. BIDDLE. I see by examining the section, my previous amendment having been rejected, that the two new judges must be assigned to courts three and four and therefore the contingency supposed by the gentleman may possibly happen.

Mr. SIMPSON. I move to amend the amendment by transferring the name of Judge Lynd from court number two to court number three and changing court number three in the twelfth line to court number two. If this be adopted I shall then vote for the proposition; otherwise, I cannot.

The CHAIRMAN. The Chair desires to suggest to the gentleman that the House has already refused to make the change he proposes.

Mr. SIMPSON. I beg the Chair's pardon. The House refused to adopt a substitute for the second paragraph, which mixed the judges all up. My proposition

is to transfer a single name. That is the difference.

The CHAIRMAN. The gentleman will forward his amendment to the Clerk.

Mr. BIDDLE. So far as I am concerned, I shall be very much pleased with that change. I wanted the judges to change places before, and I hope it will be done now. If the substitute which I have offered for the fourth paragraph is adopted, I pledge myself immediately afterwards to offer an amendment to the second paragraph, so that it will be certain that the contingency which is referred to by the gentleman from Philadelphia shall not occur.

Mr. SIMPSON. I am willing to consent to that.

The CHAIRMAN. The gentleman from the city (Mr. Simpson) withdraws his suggested amendment, and the question is on the amendment of the other gentleman from the city (Mr. Biddle.)

Mr. DARLINGTON. I understand, then the proposition before us to be that each voter shall vote for one only. Now, why should this Convention be called upon to make an exception of this kind in the city of Philadelphia over what we have in all other parts of the State, save the single instance of the Supreme Court? Why is it that in electing two judges, two of your most important officers, no man is to be allowed a choice, but that each party, in party convention, controlled by party leaders on the one side or on the other, is to name the man who is to be your presiding judge on each side, and that the people are to register the edict? If that is what you mean by free election in a free city, then I confess I do not understand it. I should like, if I were a citizen of Philadelphia, to be allowed to vote and take my choice of them, instead of no choice at all. I denounce this principle, let it be introduced where it may and fall where it may, as anti-republican, and striking at the very root of the principle on which this government rests. I am against it.

Mr. HOWARD. I am opposed to this proposition. The real effect of all such propositions, though perhaps not so intended by the persons moving them, is to prevent the body of the people from having any choice at all in the election of their officers. The people by these propositions are nobody. The politicians determine by their conventions who shall be nominated, and the majority party and the next largest minority, when they

nominate the candidate, just shake hands and walk right over the course. All the voting the people can do cannot change this, and there is no way they can help themselves. This is to tie the hands of the people so that they cannot help themselves at all. They cannot beat the nominees in any way except by setting up two independent candidates outside of the regular party organization. There is no other way by which the people can have a voice in this matter at all. A convention is called, or whatever mode is adopted, for the purpose of making the nomination; the nomination is made, and there is the end of it. The people go to the polls and vote, and no matter if there are just two or three votes put in for one of them, it is enough. If there were ten thousand polled on the other side, two or three for one candidate will be sufficient to elect him.

Mr. CUYLER. I am amazed at the gentleman from Chester, not at all so at the gentleman from Allegheny. How long is it since the people of Philadelphia had anything to do with the election of a candidate for office? How long has it been the case in the city of Philadelphia that the nomination was the election? Have we not a dominant political party in this city, and is not every man who is nominated by that party just as certain of his election as the sun is to rise on the day that we hold the election? And what more is this? This is precisely that very thing, only it makes a nominee of the Democratic party have the same chance of an election that a nominee of the Republican party has. Just so long as we have a clear and decided political majority anywhere, the man who is the nominee of the party is sure to be elected; and that is all there is in this; that is, to apply no other principle than that which prevails everywhere and always just so long as party domination exists and there is a positive majority in favor of any political party.

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

The amendment was agreed to, there being on a division, ayes fifty-one, noes twenty-five.

Mr. BIDDLE. Now, I propose the following amendment to the second paragraph of section twenty-three, line six: Strike out all after the word "Paxson" and insert in lieu thereof:

"Of the court number two, Judges Hare, Mitchell, and one other judge to be elected; of the court number three, Judges Ludlew, Finletter and Lynd; of the court number four, Judges Thayer, Briggs, and one other judge to be elected."

The amendment was agreed to.

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

The section as amended was agreed to.

The CLERK read the next section as follows:

SECTION 24. In the county of Allegheny, for the purpose of first organization, the judges of the court number one shall be the judges of the court of common pleas as organized at the time of the adoption of this Constitution; and the judges of the court number two shall be the judges of the district court, as organized at the time of the adoption of this Constitution.

The president judge of the common pleas and district court shall be president judge of said courts number one and two respectively, until their commissions shall expire; and thereafter the judge oldest in commission shall be president judge.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 25. The organization of the court of common pleas under this Constitution for the counties of Philadelphia and Allegheny shall take effect on the first Monday of January, 1875.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 26. The causes and proceedings pending in the court of *nisi prius*, common pleas and district court in Philadelphia, shall be tried and disposed of in the court of common pleas.

The records and dockets of said courts shall be transferred to the prothonotary's office of said county.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 27. The causes and proceedings pending in the court of common pleas in the county of Allegheny shall be tried and disposed of in the court number one, and the causes and proceedings pending in the district court shall be tried and disposed of in the court number two.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 28. The prothonotary of the court of common pleas of Philadelphia shall be first appointed by the judges of said court, on the first Monday of December, 1875, and the present prothonotary of the district court in said county shall be the prothonotary of the said court of common pleas until said date, when his commission shall expire.

Mr. ARMSTRONG. On examining the report of the Judiciary Committee in the sixth section, it was found to be capable of a doubt whether the appointment by the court of the prothonotary would also include the appointment of the clerk of the court of quarter sessions. To avoid any ambiguity upon that question, at an appropriate time I shall move to amend that article so as to insert the words, "clerk of the court of quarter sessions." To make the schedule consistent with that amendment, which I presume will be adopted without hesitation, as it is in the line of the judgment of the House, I propose to add in the first line of the present section after the word "pleas," the words, "and clerk of the court of oyer and terminer and quarter sessions of the peace of Philadelphia," so that the section will read:

"The prothonotary of the court of common pleas and clerk of the court of oyer and terminer and quarter sessions of the peace of Philadelphia, shall be first appointed by the judges of said court," &c.

Mr. BIDDLE. I hope that amendment will be adopted. It is hardly necessary to say, but still it may be well to say it, that it is in perfect harmony with what we have agreed on in the judiciary article to leave the appointment of these officials to the judges of that court; but by the doubt which is raised it is made uncertain whether the clerk of the court of quarter sessions was included. I presume that the chairman of the Judiciary Committee when that article comes up again will ask leave to have a similar amendment made there to make it harmonious.

Mr. EWING. I raise here the question of order that has been raised before as to whether it is competent in the schedule to change an article that has passed third reading in the House. The article on third reading certainly would make the clerk of the court of quarter sessions elective by the people.

The CHAIRMAN. The Chair will rule as he has already, that the amendment moved by the gentleman from Lycoming is in order.

Mr. DARLINGTON. The first section of the fourteenth article of this Constitution as we have passed it provides that "county officers shall consist of sheriffs, coroners, prothonotaries, registers of wills, recorders of deeds, clerks of courts." "Clerks of courts," then, are county officers; and county officers, it is provided in the second section of that article, "shall be elected at the general election." Now, what do you propose to do by this schedule. We have provided that "the clerks of the courts," which includes the oyer and terminer and quarter sessions and the orphans' courts, are county officers and shall be elected. Now, you propose to provide in the schedule that they shall not, but that the court may appoint them. It is directly inconsistent with what you have already placed in the Constitution.

Mr. ARMSTRONG. It is hardly worth while to go over again and again that which has been discussed and re-discussed, almost *ad infinitum*. By the deliberate vote of this House, upon full consideration, it was determined that the condition of the city of Philadelphia was such that it was wise and proper that the prothonotary of this city should be made appointive by the judges. It was supposed that it would also include the clerk of the court of quarter sessions; but to avoid all ambiguity on that question and with a view to express distinctly what I understand to be the settled conviction of the Convention, I shall offer to amend the seventh section of the judiciary article as I have indicated, and in view of that and in harmony with it I offer this amendment now in the schedule which will harmonize the two sections without the necessity of going back again to consider this section of the schedule. We have already voted repeatedly in the Convention to maintain the system of the appointment of the prothonotary and clerks of the court of Philadelphia, and in harmony with that I propose to make it beyond doubt that the clerk of the court of quarter sessions shall also be appointed in this city. It is the only exception to the fourteenth article which the gentleman from Chester has referred to.

Mr. HANNA. I must say that I am surprised by what I have heard from the gentleman from Lycoming that it was the intention of the Convention to authorize

the courts of Philadelphia to appoint the clerk of the quarter sessions. I never heard it mentioned here before. In the whole argument on the judiciary article, I have no recollection whatever that the clerk of the quarter sessions was referred to.

Mr. ARMSTRONG. It was so stated over and over again.

Mr. HANNA. I never heard it before. The whole object and purport of the article on the judiciary on this point is that the prothonotary of the courts shall be appointed by the judges. The clerk of the court of quarter sessions is not a prothonotary, has not been so considered and has never been so called. And again, if we refer to the article on the judiciary, it distinctly says that:

"In the city of Philadelphia there shall be one prothonotary's office and one prothonotary for all said courts."

What courts. Why, the courts of common pleas as provided for in section five. That section says:

"There shall be one court of three judges."

It says nothing whatever in regard to the court of quarter sessions. It says that the prothonotary of said courts, namely, the district court, now abolished, and the new court of common pleas shall be appointed by the judge of these courts. It does not refer to the quarter sessions; but in this article quoted by the gentleman from Chester it is retained. "The quarter sessions and the court of oyer and terminer." I undoubtedly presumed, as did everybody else, that the clerk of the quarter sessions would be elected by the people. That was my understanding. I never, for one moment, understood that it was the view of the Judiciary Committee or of the Convention to have the clerk of that court appointed. It was never so stated. The report of that committee only provides that the prothonotary "of the said courts," namely, of the courts of common pleas should be appointed by the judges. Therefore I am surprised at the motion of the gentleman from Lycoming to include the clerk of the quarter sessions.

Mr. NILES. I desire to ask the chairman of the Committee on the Judiciary, whether it is possible to amend the article on the judiciary in relation to the officers to which he refers, inasmuch as the motion has been reconsidered and has been voted down, and is beyond any amendment.

Mr. ARMSTRONG. In my judgment, in which I trust I am not mistaken, the proposed amendment is so distinctly in the line of the intention of the House, that I ventured to assume the Convention would permit the amendment to be made by unanimous consent. But if there be objection to it, a new section could be offered and put through its several readings if such were the intention of the House, and they desired to effect it.

I will say to the gentleman from Philadelphia (Mr. Hanna) that since the Commonwealth began, there never was a judge commissioned as a judge of the court of quarter sessions. Judges are all commissioned as judges of the court of common pleas, and the duty assigned them in the quarter sessions is but a part of their duty which they perform as judges of the court of common pleas, exercising criminal jurisdiction. In that point of view, section seven provided that "for the city of Philadelphia there shall be one prothonotary's office, and one prothonotary for all said courts, to be appointed by the judges of said courts." It was assumed that this vested entirely in them the power to appoint the clerk of the court of quarter sessions, I still believe, as I did in the beginning, that under a proper construction of this section the power is vested in the courts to appoint this officer. It may be that he would be a subordinate clerk, a clerk appointed by the general prothonotary; but, as I remarked a moment ago, to avoid all ambiguity on this subject and to bring the section into what I certainly conceived to be the intention of the Convention, that all the clerks, whether prothonotaries so called or clerks so called, shall be appointed by the courts of the city of Philadelphia, this amendment is proposed. It does not disturb in the least degree the harmony of the section as adopted by the Convention. It might indeed be said that it raises the question suggested by the gentleman from Chester, that it would open the discussion as to the propriety of making these officers appointive instead of elective; but that has been settled, and being settled by the distinct action of the Convention, we should adopt it as a finality on this question.

The only purpose now is to avoid obscurity and ambiguity, and to bring this section into harmony with itself. That is the whole scope of the amendment I propose.

Mr. S. A. PURVIANCE. In the first section of the article on county, township and borough officers we have there provided that the clerks of the courts are county officers. In the second section we have provided that these county officers shall be elected, and the only exception which we have made to these first and second sections of the article on county, township and borough officers is to be found in the seventh section of the article on the judiciary. There we have made an exception, and that exception, as the gentleman from Philadelphia (Mr. Hanna) very properly explains, is confined exclusively to the prothonotary. Otherwise, the prothonotaries, being embraced in the first section of the article on county, township and borough officers, as well as clerks, would have been carried by the provisions of the article, but for the exception in the seventh section.

Now, sir, it was in my mind to do so, although I forgot it at the time the article on county, township and borough officers was before the Convention on third reading, to reconcile this apparent clashing between this article and the article on the judiciary, by amending it so as to read, in the seventh section, which relates to the prothonotaries of Philadelphia:

"For the city of Philadelphia there shall be one prothonotary for all said courts."

And then, in the article on county, township and borough officers, to amend in this way:

"County officers, except as herein provided in this Constitution, shall be elected at the general election."

Mr. ARMSTRONG. I am agreed to that, to avoid ambiguity.

Mr. S. A. PURVIANCE. That would be right and proper, and I suppose there would be no objection to having unanimous consent of the body to make that amendment. But I am here to object to any further encroachment upon what has been settled by this Convention over and over again in the adoption of the article on county, township and borough officers; and I do most seriously object to the exception which was made on behalf of the city of Philadelphia. I could see no reason for it, for taking out of the hands of the people of this city that right which you concede to all the people of the State elsewhere, and I trust there will be no

further invasion of the article on county, township and borough officers.

Mr. ARMSTRONG. I would like to ask the gentleman whether he considers this an invasion or an extension of the power of that article.

Mr. S. A. PURVIANCE. I consider it an invasion, because in the article it is provided that county officers shall include clerks of the courts and in the next place we provide that they shall be elected.

Mr. ARMSTRONG. Section seven, as I would have it read, would be:

"For Philadelphia there shall be one prothonotary's office, and one prothonotary for all said courts, and one office and one clerk of the court of oyer and terminer and quarter sessions of the peace, to be appointed by the judges of the said court to hold office for three years, &c."

Just what we had before precisely, and removing any possible doubt, except only that if we put it in in express terms that the clerk of the court of quarter sessions shall be appointed. If we leave it out, we will still leave it to the consideration of the courts, and I think they would construe it to mean that the appointing power would remain with them.

Mr. D. W. PATTERSON. I must say that I feel more surprised at the action and argument of my friend from Lycoming (Mr. Armstrong) and my friend from Philadelphia (Mr. Biddle) than I possibly can at their advocacy of this amendment. First, I will submit to the recollection of every delegate on this floor whether, when this question was under discussion with regard to the courts of Philadelphia appointing their prothonotary, was it ever intimated or asked that they should have the appointment of the clerk of the quarter sessions or any other officer but the prothonotary.

I denounced this then as an outrage upon the citizens of Philadelphia. First, because it deprives them of the privilege which we extend to the citizens of every other judicial district of electing their prothonotary, and I denounced it as an outrage, because it gives the courts patronage and tends to place them under suspicion as regards their partialities or their impartialities—yea, their integrity. I think the recollection of the delegates will support me in saying that when the question of the judiciary was up and legislation was proposed in which and by which we prohibited the Legislature from imposing any duty on the judiciary that

would confer patronage or the distribution of patronage, no gentleman on this floor advocated that principle with more earnestness and eloquence than did the delegate from Lycoming and the delegate from this city. Yet now they come here this morning, both of them, and propose that the courts be given still increased patronage. They propose to increase their patronage in the face of their former action and their former advocacy. I say that this is an outrage upon the judiciary of the city of Philadelphia itself, for if anything would bring suspicion upon their integrity it would be the appointment of their prothonotaries, consisting of six or seven, by which they would dispense salaries amounting to fifty thousand or sixty thousand dollars.

It will be the first thing that will bring suspicion upon the judges of the Philadelphia courts. Now, my friend from Lycoming wants to add the appointment of another officer, an important officer who hitherto has been elected by the citizens of Philadelphia, and whom they still should be permitted to elect. I would like gentlemen to be consistent in this matter. I think we have gone too far in that direction already. Then these gentlemen advocated a provision prohibiting the Legislature from imposing any duty upon the judiciary that would dispense patronage. Now we have them seeking to increase this patronage when it would be an outrage upon the citizens in either case in not allowing them to elect their prothonotary and the clerk of the court of quarter sessions. It would deprive the people of Philadelphia of the right guaranteed by the Constitution in every other district of the State. I hope the amendment will not be entertained.

Mr. CUYLER. I hope the amendment will prevail. If the gentleman from Lancaster (Mr. D. W. Patterson) would agree to an amendment which would compel the election of lawyers as prothonotaries throughout the State, I would be perfectly willing that the people should elect. I am very sure that in the county of Philadelphia our experiences with our selection of prothonotaries have very often not been the best. The duties of these gentlemen are quasi-judicial in character. They are conversant with the records of courts. They pass upon many questions subordinately of a judicial character. They ought to be lawyers, they ought to be honest lawyers, and they ought to be experienced lawyers. I know no method

by which we can secure such men as these in our prothonotary's and clerk's offices in this county unless it be by appointment by the court. I am not afraid to trust the judges with that much of patronage, while I heartily concur with the principle that our courts should as a general rule have just as little patronage as possible. I think it due to the administration of justice in this county that the court should have the selection of its subordinates, and therefore I hope the amendment will prevail.

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

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

The CHAIRMAN. The question is on the section.

Mr. HAY. I do not understand the section exactly. I think there is ambiguity about it and a doubt which ought to be removed. It provides that :

"The prothonotary of the court of common pleas of Philadelphia shall be first appointed by the judges of said court, on the first Monday of December, 1875, and the present prothonotary of the district court in said county shall be the prothonotary of the said court of common pleas until said date, when his commission shall expire.

Is the prothonotary of the court of common pleas to go out of office now, and when is this new prothonotary of the district court to commence his term as prothonotary of the court of common pleas?

Mr. HANNA. I think I can explain that to the satisfaction of the gentleman. The term of the present prothonotary of the court of common pleas will expire on the first Monday in December, 1874. We do not propose to interfere with him, but let him fill out his term until it expires. The term of the present prothonotary of the district court will not expire until the first Monday of December, 1875, so that in the meantime he will continue to be the prothonotary of the new court of common pleas until that date, when the judges will appoint the new prothonotary.

Mr. HAY. Then say "from the organization of the court."

Mr. HANNA. It does not extend his term at all.

Mr. HAY. Provide that he shall be prothonotary from the time of the organization of the court, as the section stands.

The CHAIRMAN. The Chair calls attention to the fact that there is no motion pending.

Mr. EWING. I wish to make a suggestion to the gentleman from Philadelphia. By the article on county officers it is provided that the term shall commence on the first Monday of January in each year. It is also provided that the commissions of judges shall date from that time. Would it not be better to make the term of your prothonotary date from the same time, to be in accordance with the article on county officers and in accordance with the commissions of the judges? I make the suggestion to the gentleman from Philadelphia.

Mr. WOODWARD. I do not see any difficulty about this thing. This section makes the prothonotary of the district court the prothonotary of the new court until the first Monday of December, 1875, and then the court will appoint its own prothonotary.

Mr. LITTLETON. I think that is correct. It goes eleven months beyond the commencement of that court; that is all.

Mr. WOODWARD. It extends the office of the present prothonotary eleven months.

Mr. LITTLETON. That is done because his commission as prothonotary of the district court expires at that time and that will give him his full term.

The amendment offered by the gentleman from Lycoming requiring the appointment by this court of the clerk of quarter sessions, &c., was not adopted. There seems to be some doubt as to the status of that official, and simply to draw out an expression of opinion if there should be any difference of opinion I offer this amendment to come in at the end of this section :

"And the present clerk of the court of oyer and terminer and quarter sessions of the peace in Philadelphia shall be the clerk of said court until the expiration of his present commission on the first Monday of December, 1875."

So that there may be no mistake about that. That is the term for which he was elected.

Mr. D. W. PATTERSON. Very well.

The CHAIRMAN. The question is on the amendment of the delegate from Philadelphia (Mr. Littleton.)

The amendment was agreed to.

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

The section as amended was agreed to.

Mr. WOODWARD. I intimated to you some time ago, sir, that I wished to call the attention of the Convention to the sixteenth section before we left this article. I move now to strike out the sixteenth section and insert this—

The CHAIRMAN. The Chair would suggest to the gentleman that there would first have to be a reconsideration of the vote adopting that section.

Mr. WOODWARD. Then I move to reconsider the vote.

The CHAIRMAN. Did the gentleman vote in favor of the section.

Mr. WOODWARD. If any gentleman have any doubt on the subject I will say that my purpose is to meet the case of the city of Scranton, a very worthy member of the bar of which sits here by my side.

Mr. D. W. PATTERSON. I voted for the section. I move to reconsider it.

The motion to reconsider was agreed to.

The CHAIRMAN. The question now is on the sixteenth section.

Mr. WOODWARD. Now I move to strike out the section and substitute the following:

"All courts of record and all existing courts which are not specified in this Constitution shall continue in existence until the first day of January, 1875, without abridgement of their present jurisdiction; but no longer."

Mr. WRIGHT. I move to add to that the words of the amendment of the gentleman from Schuylkill, (Mr. Ellis,) which were added to the section last night.

The CHAIRMAN. The words added were, "except the court of first criminal jurisdiction."

Mr. WOODWARD. I had no intention of interfering with Schuylkill county, and I will add that to my substitute.

Let me explain in a few words what the difficulty is here. When the city of Scranton was incorporated under a charter very like that which most cities obtained, it had a municipal court provided for it. My understanding of a municipal court is that it is a court to enforce the ordinances of the city. The city is provided with legislative powers; it makes ordi-

nances to preserve the peace of the Commonwealth within the boundaries of the city. Such a municipal court was provided for the city of Scranton. Subsequently, in consequence of the growth of the city, of which the Convention have heard from the members from that locality, the Legislature was induced to add various civil jurisdiction to that municipal court, and now we have in the county of Luzerne a court of common pleas at the county seat, which is Wilkesbarre, with all the ordinary powers of a court of common pleas, and we have another court of common pleas in the city of Scranton, with almost all the powers of a court of common pleas, and actually exercising civil jurisdiction in these two towns eighteen miles apart, with a railroad between them and trains passing back and forth every hour. Judgments are entered and become liens on the real estate anywhere in the county at both these county seats. It will strike you all as an anomalous thing, and I think it is an unconstitutional arrangement. The Legislature provided that the president judge of the common pleas of Luzerne county should hold these courts in Scranton. The Supreme Court on a *quo warranto* decided that that was unconstitutional, and Judge Conyngnam ceased to hold courts there. The present president judge has never held them.

Now, the people of the city of Scranton as I understand from a highly respectable representative of them who sits beside me at this moment, are willing that the civil jurisdiction of that court shall be abolished, but they do not want it abolished instantaneously, because of the evil consequences that would result. They want it legalized until 1875 and then they want it abolished as a court of civil jurisdiction, and to exist thereafter only as a municipal court, and this amendment is drawn for the purpose of accomplishing that duplex object, to maintain the court until 1875 in order that they may clean up the business now pending and after that to abolish it and leave it wholly as a municipal court for the city of Scranton. That is the object of this amendment, and as it is believed that it will accomplish the wishes of the people, and interfere with no general policy of this Convention, I sincerely hope the Convention will adopt it.

The CHAIRMAN. The question is on the amendment moved by the gentleman

from Philadelphia, as amended on the motion of the gentleman from Luzerne.

Mr. D. W. PATTERSON. I should like my friend to strike out "all courts of record," as I find the subsequent part of that amendment terminates all the courts mentioned here at a certain time, and then I will offer the amendment necessary to keep our present courts of record in the same condition and with the same jurisdiction they have now until otherwise provided by law.

Mr. WOODWARD. You will observe the section as it stands reads, "all courts of record."

Mr. D. W. PATTERSON. But we have very much altered that. I would strike that out and let this go in afterwards, preserving the court of common pleas.

Mr. WOODWARD. This amendment applies only to courts of record that are inconsistent with the provisions of this Constitution.

Mr. D. W. PATTERSON. But it says that they shall terminate at a certain time. Does it not apply to the courts of common pleas?

Mr. WOODWARD. Not at all.

Mr. D. W. PATTERSON. If that is the understanding of the amendment, I have no objection.

Mr. BUCKALEW. I ask for the reading of it.

The CLERK read the amendment as follows:

"All courts of record and all existing courts which are not specified in this Constitution shall continue in existence until the first day of January, 1875, without abridgment of their present jurisdiction; but no longer."

The CHAIRMAN. I understand the gentleman from the city (Mr. Woodward) has accepted the suggestion of the gentleman from Luzerne, (Mr. Wright,) embodying the amendment of the gentleman from Schuylkill (Mr. Ellis) made last evening. That is accepted. So the question is now on the adoption of the substitute as amended.

Mr. HARRY WHITE. Mr. Chairman: This is an important matter. It affects a number of courts, as I gather from the reading of it. I did not know it was so sweeping and so general in its character. It affects an important court in my section of the Commonwealth which has just been adjudicated upon by the Supreme Court. I allude to the district court at Johnstown, known as the district court of Cambria county. There has been

a variety of legislation on that subject. A judge was elected prior to an act of Assembly last year and held on to his position until the Supreme Court just ousted him, but sustained the court as I learn. I have not seen the opinion, but I learn they have sustained the court under the legislation of last year. Now, the practical effect of this amendment will be to continue all these courts until the first of January, 1875, and abolish them after that date. That is my understanding of the effect of this. Am I correct or not?

Mr. WOODWARD. You are.

Mr. HARRY WHITE. I do not desire to do anything of that kind. It is quite possible if we have time we may frame a modification of the amendment to meet necessities, a portion of which I feel interested in. Certainly the court in question has met the necessities of the people of Cambria county. Cambria county is peculiarly situated. Johnstown is away at one end of the county, in the more populous part of the county, and it so happens that the ordinary avenue of communication between that section of the county and the county seat, which is Ebensburg, is by rail rather circuitous, and two courts in the year are held there. Owing to the inclemency of weather on the Allegheny mountains, it is impossible for them to get through. The courts are delayed, witnesses are delayed, and very frequently we have no business done. Now, this is peculiarly tedious in the matter of minor criminal and civil cases. Consequently an act of Assembly has been passed creating this district court at Johnstown, and going through a variety and rotation, and having at different times two several judges. Judge Taylor, the then president judge of the district, having been designated as the president judge of that district, was ousted under the judgment of the Supreme Court in the Conyngham case; another judge was elected, who has recently been ousted; but the Supreme Court has sustained the legislation of last year, so that we have now a court there which is recognized, and all we want is a judge. We do not want that court abolished. The county is so situated that the people cannot be accommodated otherwise than by this court, and I do not want to vote for this amendment, knowing this fact.

Mr. WOODWARD. The sole object of my amendment is to accommodate Scranton. I had no intention whatever of touching the case the gentleman from In-

diana alludes to, and if he wishes to except Cambria county from the operation of the amendment, I have no objection that I know of. I do not want to specify the city of Scranton in my amendment, but I tell you I have no other purpose in view than to accommodate the peculiar case that has grown up in the city of Scranton, and gentlemen may except any locality they please.

Mr. HARRY WHITE. I feel the same sensitiveness about specifying the district court of Cambria county as the delegate does about designating the city of Scranton. If he will designate the city of Scranton to meet the necessities of his case, I will vote with him.

Mr. WOODWARD. I do not want to do that.

Mr. HARRY WHITE. I will offer an amendment, then, to except the district court of Cambria county.

Mr. WOODWARD. I accept that amendment.

The CHAIRMAN. The question is on the amendment as modified.

Mr. CORBETT. Let it be read as it now stands.

The CLERK read as follows:

"All courts of record and all existing courts, except the district court of Cambria county, which are not specified in this Constitution shall continue in existence until the first day of January, 1875, without abridgement of their present jurisdictions, but no longer."

Mr. CORBETT. I ask if that will not continue the Nisi Prius for another year? If so, I am opposed to it.

Mr. WOODWARD. No, sir, the Nisi Prius is expressly provided for in this Constitution.

Mr. CORBETT. The effect of the amendment, as I apprehend, is to continue the Nisi Prius for another year. To that I am opposed.

Mr. CUYLER. The Nisi Prius is not covered by this amendment in any way, because it is the subject of a positive provision. I am sorry to say so, but it is blotted out by positive words in the Constitution. This amendment does not cover it. I wish it did, but it does not.

Mr. WRIGHT. Then this amendment can only affect the courts in Luzerne, and I trust no opposition will be made to it.

Mr. J. N. PURVIANCE. I am not prepared to vote on the amendment offered by the gentleman from Indiana (Mr. Harry White) without understanding it. He excepts the district court of Cambria

county. Why that amendment should prevail I do not understand. There has been some litigation in regard to that court and some question as to the constitutionality of it, and the Supreme Court recently decided that it was not a constitutionally constituted court, and consequently that the appointment of judge, &c., was void. What the purpose of this amendment is I do not know. It strikes me that the Convention has nothing to do with the question. Let it go with all the others. If it be no court it is not affected by the general provision without making an exception.

Mr. CORSON. There is a misapprehension about this section. The section proposed by the distinguished gentleman from Philadelphia (Mr. Woodward) ought to be an additional section, because it relates to courts that are inconsistent with this Constitution. This section sixteen relates to courts that are not inconsistent with the present Constitution. Therefore it should be an additional section, and both ought to be adopted.

The CHAIRMAN. The question is on the adoption of the substitute moved by the gentleman from the city with the various amendments accepted by him.

Mr. BIDDLE. I should like to hear it read.

The CLERK read as follows:

"All courts of record and all existing courts, except the district court of Cambria county, which are not specified in this Constitution, shall continue in existence until the first day of January, 1875, without abridgement of their present jurisdiction, but no longer."

Mr. HARRY WHITE. The gentleman from Philadelphia accepted my amendment, but it has been inserted in the wrong place and wipes out the court in Cambria county, which I do not want. It is put in the wrong place.

The CHAIRMAN. Will the gentleman be good enough to indicate where he desires his amendment to come in?

Mr. HARRY WHITE. I want it to come in at the end of the section that nothing herein contained shall affect the district court of Cambria county.

The CHAIRMAN. The substitute having been modified by the gentleman from Indiana, the Clerk will read it as it now stands.

The CLERK read as follows:

"All courts of record and all existing courts which are not specified in this Constitution, shall continue in existence un-

til the first day of January, 1875, without abridgement of their present jurisdiction, but no longer. But nothing herein contained shall apply to the district court of Cambria county."

Mr. BUCKALEW. I think the simplest plan to amend this section would be to strike out some few words in it—to strike out the words "not inconsistent therewith," and simply say that all courts of record now existing shall continue in existence until the Legislature shall otherwise provide. That leaves the matter flexible and subject to legislative control, and will not create any antagonism to our Constitution in any quarter. I think these words inadvertently slipped in the section.

Mr. WOODWARD. The objection to that is that it does not legalize the court until 1875. My private opinion is, and always has been, that that was an unconstitutional court, and I think others agree with me; and it is a very important part of this provision that it does legalize that court until 1875 for the purpose of winding up their business, for the purpose of saving the rights of parties who are actually litigant in that court. That is the sole object of it, and I cannot conceive that gentlemen can have any objection to a large community ridding themselves of an unconstitutional court in such a way as not to sacrifice the interests of litigants.

Mr. DARLINGTON. It strikes me very strongly that the amendment suggested by the gentleman from Columbia legalizes these courts; and what is there wrong in that? The courts have been in existence, established by law. We intend that they shall continue for a limited time, and if the Constitution is adopted with that provision in it, it does make them constitutional courts from this time forward; and why not?

Mr. MACVEAGH. But it does not limit their existence at all. It allows these sporadic courts throughout the State to continue indefinitely.

Mr. DARLINGTON. Until otherwise ordered by law.

Mr. MACVEAGH. To continue indefinitely. The amendment of the gentleman from the city gives them time to close up their business and disappear.

Now, you cannot make a Constitution without running counter to somebody, because there has been a great deal of this irregular, irrational legislation throughout the State. It is said the people want

it; that is, some man wants to be a judge in a small district; or some political necessity is supposed to have arisen and a partisan Legislature creates a court. You have gone on here for weeks and months making a uniform system, and you have reorganized the courts of this city in order to get uniformity. Now the gentleman from Indiana says, somebody up in Johnstown does not want uniformity, and we say, "well, then, do not let us have uniformity as to Johnstown; have it every place else but there." You are abolishing the court in Carbondale, you are abolishing the court in Scranton, you are abolishing the district courts in the city of Philadelphia and the county of Allegheny, and you abolished the first court of criminal jurisdiction in Schuylkill, Dauphin and Lebanon last night in order to get uniformity; and now the proposition is gravely made here that you shall except by constitutional provision this court in Johnstown. I have no possible objection to the court or to the very estimable gentleman who presided over it until the Supreme Court said he had no right to do so, the other day.

Mr. BUCKALEW. There is no judge there now.

Mr. MACVEAGH. There is a court, but there is no judge, as I understand, and there never ought to have been. I think we ought to adhere to one system or the other. Either let the district courts and the courts created through the State in former years by special legislation all continue, or wipe them all out.

Mr. HARRY WHITE. What is the question before the committee?

The CHAIRMAN. It is on a substitute moved by the gentleman from the city, (Mr. Woodward,) who has accepted your amendment.

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

Mr. BUCKALEW. I move to amend this section by striking out in the second line the words, "and not inconsistent therewith," I ask the Clerk to read the section as it will stand with that amendment.

The CLERK read as follows:

"All courts of record and all existing courts which are not in this Constitution specifically enumerated shall continue in existence and exercise their present jurisdiction until otherwise provided by law, except the court of first criminal jurisdiction for the counties of Schuylkill, Leba-

non and Dauphin, which is hereby abolished."

Mr. BUCKALEW. That last clause simply consolidates the courts in Schuylkill, where the judges are located at the same point, and are not analagous to the courts of Luzerne.

Now, Mr. Chairman, what I desire is to leave the courts at Scranton and Carbondale just as they are until the Legislature shall make further provision in regard to them. That is a simple proposition. Everybody will understand it, and everybody will be satisfied with it. The fact is that the county of Luzerne is in such a situation that it is not conveniently to be subjected to the uniform rule. It is very large and to carry thousands of men from the eastern part of the country, perhaps at every term of the court, to the city of Wilkesbarre for the transaction of small business is utterly intolerable. I propose to leave that just where it is. Do not let us meddle with it. If the Legislature find it convenient hereafter to establish new rules by which a new county shall be created there, the whole question will die out of itself, and these courts will die without any change. If the Legislature chooses to modify the jurisdiction of these courts, they can do so. If they can find it practicable, though I do not believe they will, they can abolish them or change them into mere municipal or mayor's courts if they choose. But do not let us meddle with the subject upon which we can do nothing but mischief. Certainly we can entrust the law-making power with this matter.

Mr. MACVEAGH. That is exactly what this Convention solemnly decided that it would do. Now, it may, if it chooses reconsider its action and decide it the other way. It decided that it would not have these courts created in this irregular way for these irregular purposes. The whole judiciary report was based in the committee upon the idea, and is based upon that idea as adopted by this House, that you would get rid of them; and, therefore, when the gentleman from Schuylkill (Mr. Ellis) proposed last night to abolish the first court in that district, everybody assented to it because it was an irregular court created for a special purpose or for some purpose by special legislation and was outside of the scheme.

Mr. BUCKALEW. The same judge will do the same work in another organization.

Mr. MACVEAGH. Precisely, and the same judges will do the same work here. Why do we abolish the district courts in this city and in Allegheny? Because the Convention determined to have a uniform system of common pleas courts throughout this State, and determined to get rid of these little hot-beds of pettyfoggers and of pettyfogging practice of the law, and it is a good result, and a result by which this Convention ought to stand. There may be temporary hardships, but the hardship is to be corrected under the general principles of the Constitution; and I should like to know why you should forbid the Legislature in the future creating such courts if you are going to perpetuate all the courts that they have created. Can you not trust the Legislature that are to be with the same power in this respect, if you are going to validate everything that the Legislatures have done?

In the first place, grave questions exist about the constitutionality of them. That court in Cambria county was first attempted to be held by Judge Taylor, if I remember the history of the litigation properly, and it required a *quo warranto* and a judgment of the Supreme Court to prevent men from being tried, convicted, sentenced and robbed of their property without a shadow of right. Then what occurred? Another judge was appointed by the Governor to fill the place, and now he has been playing the *role* of judge, and it required a second judgment of the Supreme Court, just rendered, in order to prevent the people of the same district from being illegally tried and their rights illegally determined. And if you are going to have a harmonious system, stand by it, abolish these courts, and let the Legislature create new courts of common pleas. There is nothing said that the court shall be at the county seat; there is nothing limiting the locality in this Constitution of the court of common pleas.

Mr. BUCKALEW. All the officers are located at the county seat expressly.

Mr. MACVEAGH. Yes, the officers are located there, but they do not include the judges. If the gentleman will read, he will see that the officers are specified "county officers," and this Convention overwhelmingly decided that judges are not county officers but State officers. There is nothing in the Constitution at all to prevent the erection of a court of common pleas at Carbondale, Scranton, or anywhere else the Legislature decide to do it; it will require it to be the common

pleas number two of Luzerne county, in harmony with the system that the committee reported and that the Convention adopted and has retained up to this hour.

Mr. LILLY. Mr. Chairman: I think the whole difficulty on this subject was in allowing the Constitution to be made in such a way as to prevent the dividing of Luzerne county; and you see now the difficulty we have got into on that account. I plead to get the Convention to agree to a proposition by which Luzerne county might be divided, but they have left it in such a position that I have no hope of ever getting any relief in that direction. I merely put in these words to remind the Convention of what they have done.

Mr. D. W. PATTERSON. Mr. Chairman: I respectfully ask the delegate from Dauphin on what authority he alleges that this House has decided that none but constitutional common pleas courts can be established. I find in the first section of the judiciary article that we did permit the Legislature to establish "such other courts as the Legislature may from time to time establish." That was inserted for the very purpose of meeting the wants of such an empire as Luzerne, that the Legislature may, as they have done for many years past, establish courts to meet such wants. We wish to reserve this court provided by acts of the Legislature, until otherwise provided by law.

Mr. MACVEAGH. I will read for the gentleman if he has not seen it already:

"The number of judges in any of said courts," in the fifth section, "or in any county," enlarging it beyond Philadelphia and Allegheny, "where the establishment of an additional court may be authorized by law, may be increased from time to time, and whenever such increase shall amount in the whole to three, such three judges shall compose a distinct and separate court as aforesaid, which shall be numbered as aforesaid."

Mr. D. W. PATTERSON. That is the fifth section; it only applies to Philadelphia or Allegheny.

Mr. MACVEAGH. Or any county where the establishment of an additional court may be authorized by law.

Mr. D. W. PATTERSON. What line is that?

Mr. MACVEAGH. Line fourteen.

Mr. D. W. PATTERSON. I do not understand it that way. It only provides for any county where the establishment of an additional court may be authorized. That I understand applies to a case when

Philadelphia may want a court number five.

Mr. MACVEAGH. Or Lancaster court number two.

Mr. D. W. PATTERSON. No; when Philadelphia requires court number five. If it does mean otherwise, certainly it was not so understood when the section was under discussion. The arrangement now proposed leaves it entirely to the Legislature to abolish these courts whenever they see proper.

Mr. WOODWARD. Mr. Chairman: I had thought this matter might be brought to a satisfactory solution; and if the majority of this Convention would have allowed the people of Scranton to give up their unconstitutional court, continuing it only until pending cases should be properly disposed of, the whole trouble would have been ended. That was the whole proposition. It offends nobody; it conflicts with nothing in our Constitution; and the Supreme Court whenever they have touched this subject, have decided that such courts are unconstitutional, and every party litigant runs an immense risk of having his vested rights in land or other property divested by such a decision at any time. And now when the people of Scranton come before this Convention and say, "we are willing to give up our court if you will only continue it until 1875," who is there in this Convention to forbid this pacific solution of this most knotty and difficult subject? The majority of this body oppose it, for only a lean minority stood up in favor of it.

The motion of the gentleman from Columbia, who has undertaken to speak for the people of Luzerne without any authority, so far as I know, will not accomplish the purpose. The striking out of the words "inconsistent therewith" does not legalize this possibly unconstitutional court until 1875. The people of Scranton never agreed to give up that court on such terms as the gentleman from Columbia proposes. They want to clean up their business without the sacrifice of the rights of private parties. Why not let them do it? I put it to the majority to say what good reason can you assign for not allowing that large community to get out of this snarl in this peaceful manner which the Supreme Court has again and again said is necessary. What is the reason? I appeal to reasonable men; I call for the reason that this community cannot be permitted to

give up this court without a sacrifice of their rights.

I have no interest in it. I do not care anything about these municipal courts. You may embarrass the people of Scranton as much as you please; but it is all wrong. Here is a simple, peaceable mode of solving this whole difficulty whereby this Convention will never have any more question about Scranton. As to the division of Luzerne county, we have no power over that subject, I apprehend. I think we ought not to meddle with it. I think that it ought to be left to the Legislature; but as to this unconstitutional court which is drawing in one after another the citizens of the county, we ought to dispense with it. Why not let the people of Scranton have their municipal court without civil jurisdiction after 1875? That was the whole of my proposition. If the adverse vote means that the people shall array themselves against your amendment, that is not wise and I think there is great danger of that. I wish some gentleman who voted in the affirmative would move to reconsider the vote on that subject and let us try it again.

Mr. ARMSTRONG. If the amendment proposed by the delegate from Columbia were adopted it would simply in my judgment nullify a very large part of what the Convention has already done. It is to be observed that the first section of the judiciary article vests the judicial power of the Commonwealth in certain courts as are named and in such other courts as the Legislature may from time to time establish, but the twenty-eighth section provides that "no court shall be established which shall exercise the powers vested by the Constitution in the judges of the courts of common pleas." The Legislature may establish other courts, but they may not establish courts to exercise the jurisdiction vested in the court of common pleas.

Mr. BUCKALEW. I do not see how they could vest in new judges the powers we give to the courts of quarter sessions—criminal business.

Mr. ARMSTRONG. They could not vest in judges of the new courts any powers which by the Constitution are vested in the judges of the common pleas.

Now, as to the section pending, the amendment is to strike out "and not inconsistent therewith." Then the section would read:

"All courts of record and all existing courts which are not in this Constitution specifically enumerated shall continue in existence and exercise their present jurisdiction until otherwise provided by law."

That is to say, we vest in the Legislature a power of conferring jurisdiction upon a court by enacting a law which might be in contravention of the provisions of the Constitution, and the two parts of the Constitution would thus be in conflict and could not be construed together, and the Supreme Court would be under the necessity of adjusting by decision and interpretation the inconsistency of our work. We have not specified the particular courts which are not in this Constitution specifically enumerated. We have spoken of the *nisi prius* court. I do not at present recollect any other court which we have specifically enumerated; so that with the amendment of the gentleman from Columbia we should put it in the power of the Legislature to nullify very much of our work on this subject. What we want is a system of jurisprudence in this State, and what we wish to prohibit is to prohibit every court which is inconsistent with this Constitution; and why should we strike out the very words which are the saving clause of the section? The gentleman proposes to strike out the words "and inconsistent therewith;" that is, inconsistent with this Constitution. Now, the very purpose of the Convention is to strike down every court that is inconsistent with this Constitution that we may enforce our work, that we may enforce the system that we have adopted, and that we shall not allow courts to grow up in this State that are inconsistent with it. If this amendment be adopted, it strikes out from the section the very safeguard under which we enforce the judicial system which the Convention has approved. The amendment, in my judgment, ought not, therefore, to be adopted.

I voted for the proposition of the gentleman from Philadelphia (Mr. Woodward) because it was a specific permission to extend the jurisdiction of a court already established, until 1875. I could see no especial harm in that. They could get along with the same system for another year or more; but the time must come when the judicial system of the State shall be brought into harmonious operation, and any section or any provision which strikes down that system is in my judgment improper and impolitic. If the

section as moved by the gentleman from Philadelphia is reconsidered, I trust it may be adopted. It does no harm; it is not inconsistent with the system, and it simply allows one county to proceed with their judiciary as it is at present, and the gentleman requests me to state that if it is reconsidered he will reject the amendment proposed by the gentleman from Indiana, which will then I think make it quite acceptable.

Mr. G. W. PALMER. Mr. Chairman: It is my fortune or misfortune not to be a lawyer. I find that I am surrounded by eminent lawyers, for whose judgment I have the utmost confidence. The difference between the proposition of the gentleman from Philadelphia (Mr. Woodward) and that of the gentleman from Columbia (Mr. Buckalew) is that the former legalizes our municipal courts, which good lawyers tell me are not legal. Now, the business that has been done in those courts the people of those counties do not want overturned. They do not want to be thrown into confusion in reference to the business that has been done. They want something done to fix that thing so that nobody will be injured by it; and as I understand, they want something done to correct the evils that have grown up in those courts. As I understand the proposition of Judge Woodward, it is by the Constitution to legalize those courts up to the specific time named, when they shall end. Then, as I understand it, the Legislature will have power after that time to regulate the courts of Luzerne. I wanted to know just where we stood on that subject, and the way we have got the Constitution fixed now the Legislature will have the power by general law to divide that county if the people want it divided, and to regulate that court. I voted for the proposition of the gentlemen from Philadelphia with that understanding, and I still stand by it. I want to maintain it. I believe that is just what our people desire. I do not want them put in such confusion that they lose their liens or cannot tell whether their judgments are liens or not.

Mr. BUCKALEW. I hope that the committee will indulge me in a few words in reply to the gentleman from Lycoming.

The amendment proposed by me is not in the slightest degree inconsistent with the judiciary article as I understand it. That article forbids the creating of any new court and conferring on that court the jurisdiction vested by the Constitu-

tion in the judges of the court of common pleas. What is their jurisdiction? To hold courts of common pleas; to hold courts of quarter sessions; to hold courts of oyer and terminer. Therefore the Legislature, under that article, cannot establish any courts anywhere in this Commonwealth with jurisdiction to try common pleas, quarter sessions and oyer and terminer business, except courts of common pleas pure and simple. They can never establish courts at Scranton and Carbon-dale that shall have jurisdiction of either of these things. That is clear and that is prospective.

My amendment is that these courts which are now exercising limited jurisdiction and transacting local business in these two cities, which it would be intolerable to transfer to Wilkesbarre, shall continue to transact that local business until the Legislature shall prohibit them. There is no power conferred by my amendment to increase the jurisdiction, but they are to continue until the Legislature shall otherwise direct. Is that inconsistent? Not at all. It is a special provision to meet an existing case, an existing necessity in the county of Luzerne which you have substantially forbidden the Legislature of this State to divide or to be divided in any other manner hereafter.

The amendment offered by the gentleman from Philadelphia, (Mr. Woodward,) in my point of view, is simply to give a little breathing time until 1875, and then to decree that all the judicial business of that county shall be transferred to Wilkesbarre, and shall be transacted there. That is the whole of it as I understand. The county officials, prothonotary, clerk of the court of quarter sessions and the court of oyer and terminer can all hold their offices at the county seat. The records must be all kept there. You cannot therefore get a new court for a double reason to transact either criminal or common pleas business at any other point in the county without this amendment. You cannot have the records at any other point in the county. You cannot have the jurisdiction of the common pleas judges extended under the legislative article.

These are my reasons for offering the amendment which I have presented, and I think my motive in offering that amendment will stand justified in any forum of conscientious and reasonable argument, and I do not admit, with the distinguished gentleman from the city, that I am in-

truding myself unasked into the affairs of the county of Luzerne. I am perfectly sure that the people of the eastern portion of that county, when the question comes to be discussed before them up to the time of the election, when it is seen that we have utterly deprived them of all judicial facilities in their section of the county, will say that this is a wrong and a grievance inflicted by the Convention in connection with the standing prohibition against any division of the county. I do not want to create antagonism and jealousy in any quarter for our work, and I must exercise my own judgment with reference to what is judicious to be placed in the Constitution.

Mr. WOODWARD. I did not intend to make any reflection whatever on the gentleman from Columbia when I alluded to the fact that he was volunteering to represent Luzerne county, which was already well represented on this floor. But, sir, it is a little singular that when the special representative of Scranton (Mr. Merrifield) comes here to propose so reasonable a compromise as we had before us just now that the gentleman from Columbia should interpose his motion, the effect of which is nothing else than to leave this whole subject to the Legislature and all the evil has come from that direction. It is the Legislature that made these anomalous courts and divided up these civil jurisdictions. It is the legislation that has done the mischief which we are here to cure, and yet the gentleman's proposition is nothing less than to refer this whole thing back to the Legislature. There is no remedy in that. The Legislature can be worried into the same sort of legislation, such as they have enacted heretofore, and every lawyer will tell the people that that legislation is unconstitutional, and when the question comes before the Supreme Court, the Supreme Court will decide it to be unconstitutional as they have done thus far. That is the posture in which the gentleman proposes to leave this subject. It is just as bad a plan as it can possibly be, and I hope it will be voted down.

While I am on my feet, I will say that if the Convention will vote down the amendment of the gentleman and some two gentlemen who voted with the majority against the amendment I had the honor to offer, will move to reconsider the vote by which that amendment was rejected, I will withdraw from it the pro-

position of the gentleman from Indiana, which I believe killed it.

Mr. HARRY WHITE. Oh, I hope not.

Mr. WOODWARD. Yes, I will, because the gentleman from Indiana spoiled my amendment. I firmly believe my amendment would have been adopted if it had not been for the amendment of the gentleman which I unadvisedly accepted. I am so much in the habit of deferring to so distinguished a gentleman as the gentleman from Indiana, that I accepted his proposition without considering it, and it was that which killed my proposition. I wish to say now to gentleman that if any of those who voted with the majority on my amendment will move to reconsider the vote by which my proposition was defeated, I will then submit my proposition without that of the gentleman from Indiana.

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

A division was called for, which resulted twenty-eight in the affirmative. This being less than a majority of a quorum, the amendment was rejected.

Mr. CORBETT. I now move to reconsider the vote by which the amendment of the gentleman from the city (Mr. Woodward) was defeated.

The CHAIRMAN. How did the gentleman from Clarion vote?

Mr. CORBETT. With the majority.

The CHAIRMAN. Who seconds the motion.

Mr. BIDDLE. I second it.

The CHAIRMAN. Did the gentleman from Philadelphia vote in the majority?

Mr. BIDDLE. I did.

The CHAIRMAN. The question is on the motion to reconsider.

The motion to reconsider was adopted, ayes forty-five, noes not counted.

The CHAIRMAN. The motion to reconsider being agreed to the question recurs on the amendment of the gentleman from Philadelphia.

Mr. WOODWARD. Now, sir, I withdraw the amendment of the gentleman from Indiana, which I before incautiously accepted.

Mr. HARRY WHITE. I rise to a question of order that the amendment cannot at this time be withdrawn.

The CHAIRMAN. The Chair is of the opinion that that cannot be done. The amendment is the property of the committee.

Mr. WOODWARD. Then I ask for a division of the question.

The CHAIRMAN. The gentleman will indicate where the division will come in.

Mr. WOODWARD. At the end of my amendment. [Laughter.]

The CHAIRMAN. The Clerk will read the first division of the amendment offered as a substitute for section sixteen.

The CLERK read as follows :

"All courts of record and all existing courts which are not specified in this Constitution shall continue in existence until the first day of January, 1875, without abridgment of their present jurisdiction, but no longer."

Mr. HARRY WHITE. If there ever was an ungracious act in the world it was that which was just witnessed by this Convention in the remarks made by the distinguished delegate at large from the city of Philadelphia. He desires to strike out the amendment, and such a very fair amendment as I offered and he accepted. The delegate from Philadelphia I have looked upon as my friend. The amendment which I offered I submitted as his friend, and he accepted it as my friend. I offered it in the interest of his amendment, and I voted for it, and I am willing to stand by it now and take the consequences. I do not represent here immediately the county of Cambria. The gentleman from Clarion, (Mr. Corbett,) who was one of the gentlemen who moved to reconsider this vote, represents the county of Cambria, and he is interested immediately in the proposed amendment, and I might as well dispose of it here in a word. If the delegate from Philadelphia accepted this amendment incautiously, he has reason to be thankful also to the delegate from Dauphin, who turned his attention entirely to the delegate from Indiana, and who was utterly oblivious of the delegate from Philadelphia. [Laughter.] It so happened that this proposition got into rather a queer shape. The delegate from Dauphin happened to be out of the chamber—he is very seldom out of the chamber—for a little while, and he came in and heard something about the court of Cambria county, and he naturally associated the name of the delegate from Indiana with the court of Cambria county. The delegate from Indiana had a little brief conversation with the delegate from Dauphin, which was that it was to save the court and leave it to the disposition of the highest court of the land to dispose of it as they saw fit, according to

existing laws, because the people wanted it. The delegate from Dauphin, believing that the main question and the whole question before this Convention was upon the proposition which the delegate from Philadelphia had so courteously accepted, turned his attention entirely to the delegate from Indiana.

I had not introduced the proposition here, and if the delegate from Dauphin had been acquainted with the true state of the case, I know his silvery eloquence would not have been turned against the delegate from Indiana.

Mr. MACVEAGH. Will the gentleman allow me to explain how I came to turn my attention to the delegate's motion.

Mr. HARRY WHITE. Not at this moment.

Mr. NEWLIN. That is ungracious. [Laughter.]

Mr. HARRY WHITE. I am satisfied that the delegate has a spleen, if not at me, certainly at the court of Cambria county, because recently he has been professionally engaged in the Supreme Court against this court which was organized in the interest of the people.

Apart from personality, what is the proposition? The delegate from Philadelphia has offered an amendment here to save all courts of record not specially enumerated in this Constitution, until the first day of January, 1875, at which time they will be abolished. What is the practical effect of that? The practical effect is to cut up by the roots the mayor's court of the city of Scranton, the court in Carbondale, and all such other courts which have been created by legislation from time to time. It is provided that after the first of January, 1875, the jurisdiction of these courts shall cease. While the court of Scranton and the court of Carbondale were to be cut off by the process of this amendment, I happened to live in another section of the State, where they have a court, the creature of the law created for the necessities of the people, and where justice is done. This court is a court where justice is thoroughly administered, and it is a court that wants to stand or fall by the law of the land. That court was not organized to meet the necessities of this gentleman or that gentleman. It was not organized for the purpose of making this man or that man judge. Now, this court had rivals in the county of Cambria, that part of Pennsylvania where there are lawyers who are able to be judges, lawyers who are able to

make their living on the bench or off the bench, just as well as the lawyers in any other part of the Commonwealth, and I happened to suggest to the gentleman from Philadelphia—

Mr. D. N. WHITE. I move that the committee rise and report progress.

The CHAIRMAN. The gentleman from Allegheny (Mr. D. N. White) cannot make that motion because the delegate from Indiana (Mr. Harry White) has not yielded the floor.

Mr. HARRY WHITE. I yield the floor to the delegate from Allegheny for the purpose of moving that the committee rise.

Mr. MACVEAGH. I trust the gentleman from Allegheny will withdraw his motion for a moment to allow me to make a personal explanation.

The CHAIRMAN. Is the motion withdrawn?

Mr. HARRY WHITE. No; I will not yield for any such purpose.

Mr. MACVEAGH. I was recognized by the Chair after the gentleman from Indiana sat down.

The CHAIRMAN. The delegate from Dauphin will allow the Chair to explain. The gentleman from Indiana yielded the floor to the gentleman from Allegheny to move that the committee rise. While the Chair was recognizing the gentleman from Allegheny the gentleman from Dauphin obtained the floor. Of course, there being a motion that the committee rise, the Chairman of the committee must entertain the motion.

Mr. MACVEAGH. I think the gentleman from Allegheny withdrew that.

The CHAIRMAN. I asked him if he did, but he has not answered,

Mr. D. W. WHITE. I do not withdraw it.

The CHAIRMAN. He answers in the negative. The question before the committee is, shall the committee rise?

The committee of the whole rose, and the President having resumed the chair, the Chairman (Mr. Cassidy) reported that the committee of the whole had had under consideration the article on the schedule, and had instructed him to report progress and ask leave to sit again.

Leave was granted the committee of the whole to sit again this evening.

Mr. J. N. PURVIANCE. I move that the Convention take a recess.

The motion was agreed to, and (at two o'clock and fifty-eight minutes P. M.) the

Convention took a recess till seven o'clock P. M.

EVENING SESSION.

The Convention re-assembled at seven o'clock P. M.

THE EXECUTIVE.

Mr. CURTIN. Before the Convention proceeds to the regular business, inasmuch as our sessions are about closing, I desire to offer an additional section to the fourth article on "the Executive," by unanimous consent. When the Clerk reads it the reason will be apparent.

The CLERK read as follows:

"The Governor shall have power to convene the Senate in extraordinary sessions by proclamation, for executive business.

Mr. CURTIN. As the Senate meets but once in two years, and we refer all appointments made by the Governor to the Senate for confirmation, the reason for that is apparent. It has been considered by the committee on the Executive Department and has their unanimous approbation. It is to convene the Senate for executive business.

Mr. BOYD. Cannot the appointees serve until the regular time of the meeting of the Senate?

Mr. CURTIN. They might or might not.

The PRESIDENT. The delegate from Centre asks unanimous consent to introduce the section into the article on the Executive.

Mr. HARRY WHITE. Mr. President: It is a little extraordinary that we should have this proposed. We have not had things of this kind in my recollection. In Pennsylvania an executive session of the Senate was always held during the session of the Legislature, and, of course, with open doors. I know of no instance where the Senate has been called upon to meet at a time different from the co-ordinate branch of the Legislature. This is certainly an invasion of the principle of the government of the State heretofore.

Mr. COCHRAN. Mr. President: I think this discussion is out of order. The motion is simply to introduce this by unanimous consent, for consideration hereafter.

Mr. CURTIN. That is all I desire.

Mr. COCHRAN. I hope it will be introduced by unanimous consent, and taken up in the proper way.

The PRESIDENT. It will be laid on the table for the present.

Mr. CURTIN. Very well; that is all I propose now.

Mr. HARRY WHITE. I merely wanted to know something about it. I understood the request was for the unanimous consent of the Convention to adopt it in the executive article.

The PRESIDENT. So the Chair understood, but it has now been laid on the table to be called up hereafter.

THE SCHEDULE.

The Convention resolved itself into committee of the whole for the further consideration of the article on the schedule, Mr. Cassidy in the chair.

The CHAIRMAN. The first division of the substitute offered by the gentleman from the city (Mr. Woodward) to the sixteenth section is before the committee, and upon that substitute the delegate from Indiana (Mr. Harry White) has the floor.

Mr. HARRY WHITE. Mr. Chairman: The Convention understands pretty well by this time that there is a court at the western end of the Allegheny mountains, located at Johnstown, and known as the district court of Cambria county. They understand by this time pretty well that there is a court up in Luzerne county, and they understand that the amendment offered by the delegate from Philadelphia (Mr. Woodward) is to save the existence of those courts until the first of January, 1875, and at that time abolish them. Now, apart from any personality about this, so far as I am concerned, I desire in behalf of the people of Cambria county, who are a constituent element of this Commonwealth, who are interested in the administration of justice, who do not want courts which were created to meet their necessities legislated out of existence, to utter my voice in favor of the amendment which I offered to the amendment offered by the delegate from Philadelphia.

Many persons here imagine that the effect of this amendment will be to create a new judge and create a new court. I protest against any construction of that kind being placed upon it. A very eloquent man, intellectual at least and conspicuous in the political history of the nation, wanted upon one occasion "to be let alone." All I desire in behalf of the people of Cambria at least is to have them let alone in this regard.

Now, what is the history of this matter? The Legislature of 1869 authorized

the creation of a district court with limited jurisdiction in Johnstown, and it was provided that the then judge of the district, Judge Taylor, should hold that district court. After the decision of the Supreme Court in Judge Conyngham's case he had a question about his right to hold that court, and upon an informal proceeding being commenced before the Supreme Court it was decided that he stood upon all fours like Judge Conyngham. He refused thereafter to exercise jurisdiction. Some subsequent legislation was had, and by reason of the difference of opinion between the two Houses the Legislature of 1870 adjourned without the passage of a bill providing for the election of his successor. The consequence was what? The Executive of the Commonwealth, under the revised judicial act of 1852, passed to meet the necessities resulting from the amendment of the Constitution of 1851, appointed a person to act as judge, and that person was elected at the fall election of 1870 as the judge for that district, and he has continued to be the judge for that district from that time until this. Proceedings have been commenced, recognizances have been entered into, rights have accrued, judgments have been entered, liens have been acquired, and they exist there to this day.

Last winter the Legislature passed an act of Assembly meeting some of the difficulties indicated in the opinion of the Supreme Court in an informal matter which was taken up testing the right of the prothonotary of that district court to exercise the functions of his office. That act of Assembly is the law to-day, and it is averred by the friends of the court that that act of Assembly meets all the difficulties that the Supreme Court suggested. Very recently, however, a *quo warranto* was taken out and an opinion has been delivered by the Supreme Court in which they have decided that the judge cannot exercise his functions there. Now, mark you, that decision was had because the judge was elected without any special authority of law, and there is a vacancy in the judgeship of that court. The friends of the court and the people of that neighborhood desire it filled, and the Executive of the Commonwealth is about to appoint a person to act as judge under the new act of Assembly which has been passed.

Now, all I desire is that this Convention shall let that court and the subsequent

legislation made in behalf of it rest upon its merits. We do not want to do anything here to save it; we do not want to interfere with it at all. The only effect of the amendment which I have offered is to let it stand as it now stands. If anybody desires to bring it before the Supreme Court, and the Supreme Court decides that it is no court, so be it; but I do not desire here any prejudicial legislation against the people of that locality; and I say in their behalf, representing twenty thousand people, and at least six or seven thousand voters, that are unanimous so far as votes are concerned in behalf of a court there, and if this Convention in any of the articles of the new Constitution strikes a fatal blow at their local interests, they have a right to vote against it. I do not want any contingency of that kind to occur, and the amendment which I have offered will prevent it.

Mr. WRIGHT. Mr. Chairman: I had supposed that the county of Luzerne was entitled to some special provision in regard to its courts, just the same as has been awarded to the county of Philadelphia and the county of Allegheny. It is true the population of Luzerne has not yet reached that of Allegheny, but in the course of ten years I have no doubt that it will come up to the population of that great county in the west. We are entitled to some special legislation here on the subject of our county. It has not yet been given to us.

Now, sir, I have endeavored to represent my whole constituency on this troublesome question, and to act fairly both to the courts at Wilkesbarre, to that at Scranton, and to that at Carbondale. The only question is, whether any system can be adopted by which these courts can be held for the accommodation of the people. The people of Luzerne have no desire that their county shall be divided. They are proud of her in her present prominent position. They have decided by a solemn vote that that county shall not be cut into gibbets, but shall be maintained in its integrity; and I believe today that the people of Luzerne desire the county to remain intact, but they want the accommodation of a sufficient judicial force. I was willing to leave this matter rest as it was under the impression that under the provisions we had adopted we could hold the principal court at Wilkesbarre, that the officers could be there and the officers have their residences there, and that the Legislature would have the

power to send the judges of the courts of common pleas to hold terms of court at Scranton, at Carbondale, and if needed, at Hazleton. It seems now to be the impression of the chairman of the Committee of the Judiciary that that cannot be done. If it cannot be done, I desire that there shall be a special provision made, and I think it can be done in a short time, to accommodate the county of Luzerne.

I know that we have been rather troublesome here for some time past; but I believe upon this subject the members from that county are all in accord; I believe that we have but the one view and the one purpose—to let Wilkesbarre be the county seat, and to have the courts held in these different places, especially for the trial of civil issues.

I will refer you, sir, to a part of the judiciary article which I supposed would give to the Legislature the power of sending the judges to those places; but others have regarded it as a bar. It is as follows:

“The Legislature is hereby prohibited from creating other courts to exercise the powers vested by this Constitution in the judges of the courts of common pleas and orphans' courts.

Well, sir, we do not ask for the establishment of *other courts*. What we intended to ask at the hands of the Legislature was that the same court should hold sessions at different places. If that can be done, the other provision as it stands here covers our case, and we ask nothing further at the hands of this Convention. If it cannot be done, then it is our right that we should have a special provision, as in the case of the county of Allegheny, because it is not the wish of the people of the grand old county of Luzerne to have any part of her territory taken from her. She wishes to remain as she is, especially as she is growing faster than any other county in the Commonwealth, and soon destined to take a more prominent position; perhaps ahead of the magnificent county of the west.

Now, sir, I am not prepared to say what would be the exact effect of the proposition offered by the gentleman from the city (Mr. Woodward.) I supposed that as the section stood nothing further was required. This sixteenth section provides that “all courts of record and all existing courts which are not in this Constitution specifically enumerated, and not inconsistent therewith, shall continue in exist-

ence, and exercise their present jurisdiction until otherwise provided by law."

The provision by law to be followed hereafter I suppose will be an authority for an increase of the number of our judges after we get permission to hold these courts in different places and I make my appeal to the chairman of the Committee on the Judiciary, who has had this matter principally in charge, and whose discriminating mind reaches over the whole length and breadth of the subject, to provide for us, in case in his opinion under the Constitution as now framed here the integrity of the county cannot be preserved, and then to give us some special provision, the same as in the other counties I have named.

The CHAIRMAN. The question before the committee of the whole is the first division of the amendment of the gentleman from Philadelphia (Mr. Woodward.)

MR. PUGHE. I should have been pleased, Mr. Chairman, if my colleague (Mr. Wright) had made the speech that he has just made when the division of the county of Luzerne was under consideration in this Convention. I could not have put the argument in a stronger light than he has. He has declared to you that Luzerne county is an empire, that it has such an amount of legal business that it is necessary to have two or three courts. What stronger argument would there be than that. I endeavored to place before this Convention, a few days since, in my feeble way, statistics so strong that they were not controverted, to prove the very words that he has this evening said. But this Convention saw fit to do otherwise, and it passed an article girded round, as with iron, to prevent the great county from being divided. Such is our fate and we abide by it. The question now before us is the sixteenth section of the schedule which I will read:

"All courts of record and all existing courts which are not in this Constitution specifically enumerated, and not inconsistent therewith, shall continue in existence and exercise their present jurisdiction until otherwise provided by law."

What is the effect of that sixteenth section? As I stated before, in the county of Luzerne there are two mayor's courts. One is located at the city of Scranton and the other at Carbondale. They have the same jurisdiction in common pleas as the court of common pleas of the county and have all the powers of the court of common

pleas except as a court of oyer and terminer. These courts were established to relieve the county court, so vast had the business there become, but now in this schedule these courts are abolished. That is the effect, as I understand it, and as I gather it from the best legal minds here. My friend from Columbia (Mr. Buckalew) moved this afternoon to strike out the words in that section, "and not inconsistent therewith," but this Convention saw fit to vote down that motion. If those words had been stricken out, those courts would have remained in power until the Legislature could provide some other means of transacting the business which now is brought before these tribunals. As it is, we have to do the next best thing under the circumstances, and I ask this Convention, in all candor, will you object to it, for it is the proposition submitted by the distinguished delegate from Philadelphia, which is:

"All courts of record and all existing courts which are not specified in this Constitution shall continue in existence until the first day of January, 1875, without an abridgment of their present jurisdiction, and no longer."

Why is this offered? If you abolish these courts, there are judgments entertained on their dockets, and there is a vast amount of local business transacted in the city of Scranton and entered on the docket of this court, which is a court of record equal in business to two-thirds of the common pleas courts in this State. What is to be the status of those judgments, if they are all to be wiped out without some provision? Give them time to make some arrangement. Give them time to go to the Legislature and provide some other way in which these judgments shall be transferred to Wilkesbarre, to the county court. If we are going to be in this situation, however, there is no help for us. If you refuse to give us the same privilege that they have in Philadelphia, and that they have in Allegheny, we ought to have courts, say number one, number two and number three, so that business can be transacted without requiring everybody in the county to go to one place. These courts could be held at Wilkesbarre, at Scranton, and at Carbondale, so as to make up for the deficiency that you are creating by wiping out this section. You will leave us in the most terrible condition that you can conceive of, and I hope the Convention will pass this present amendment, which is the only

thing we have now to rely upon after the amendment of the gentleman from Columbia has been voted down.

Mr. G. W. PALMER. The county of Luzerne has attracted the attention of this Convention more than has been absolutely necessary since our sessions convened. My colleague, who has just taken his seat, seems to be of the opinion that the amendment offered by Judge Woodward is the only thing left to us. I cannot see why we are placed in that fix. Inasmuch as the delegation from the county of Luzerne here are a unit upon what should be done, I conceive no reason why any delegate on this floor should object to his having met that want inasmuch as it does not conflict with any other portion of the State. We want nothing more than has been conceded to other localities in the State, and which now stands as a part of the Constitution. What I would desire and what I would be willing to concede to anybody in this Convention, is for the delegation from Luzerne to agree upon just exactly what they do want, submit it to this Convention, and then if it is not in conflict with the wishes of any other portion of the State, let this Convention give us their unanimous consent to have that adopted and make a clause of the Constitution. I think that is fair, and it seems to me that no fair-minded man could object to that. We can do that. We know what we want, and we can reduce our wants into a short and comprehensible shape which will cover the troubles and necessities of that county, and our people will abide by it because they will be satisfied.

Mr. BIDDLE. I was greatly impressed by the remarks of the delegate from Columbia (Mr. Buckalew) when he offered his amendment to section sixteen, which proposed substantially to strike out the words "and not inconsistent therewith," because, in my opinion, he reduced it to a demonstration that unless the substitute offered by him, or something similar to it, was adopted as part of this schedule, the great county of Luzerne, the third in population in this Commonwealth, and with the vast interests which have more than once been referred to in detail on this floor, would be practically left in a maimed, mutilated condition with regard to the administration of justice. While I would have greatly preferred, and so voted, to have the substitute offered by the gentleman from Columbia, yet this House in its wisdom

thought otherwise, and, of course, unless the reconsideration of that vote is moved, we must acquiesce in it. It does not lie in my mouth or in the mouth of gentlemen who voted in the minority, to stir that question now; but I cannot conceive, if the House does not intend to go back and reconsider that, of anything more fair and more just than this small measure which is now asked by the gentleman from Luzerne. They ask you in effect to give them rather less than a year during which they may put their legal house in order, and really, if we do not accord them that, (and I would be for giving them considerably more,) it is difficult to state the confusion in which the business there will be placed. They will be literally tied hand and foot, without the power of motion, unless something of this kind is done.

While, therefore, I shall vote for this amendment offered by the gentleman from Philadelphia, the delegate at large, (Mr. Woodward,) I do hope after the fuller discussion we have had of this question, some gentleman who voted in the majority on the motion of the gentleman from Columbia will move a reconsideration and let us grant them more; let us, in other words, say to them that until the Legislature makes ample provision for putting them to the same condition as the rest of this Commonwealth, they will allow those courts to which they have become accustomed and which have carried on so large a portion of the civil business we have heard of to-night, to continue in running order. I shall vote for this substitute and hope something else will be done.

Mr. NILES. I was one of those who voted with the majority against the amendment proposed to this section by the delegate from Columbia. I did it, supposing it would be satisfactory to the delegates from Luzerne and that they would accept the amendment of the delegate from the city. I now rise for the purpose of moving a reconsideration of that vote, and I appeal to the delegates who are here this evening to give the great county of Luzerne this poor boon, and give them some sort of substantial justice. I appreciate all that has been said by one of the delegates from Luzerne (Mr. Pughe) in reference to the iron-clad provision which we have put into the Constitution in regard to the organization of new counties, and to all of that I am agreed. I did what little I could against putting it

there; but while it is there and while for the future Luzerne is destined to remain as she is with her one hundred and sixty thousand population, let us not say that in the future the Legislature shall not have the power to do her people some sort of justice, and that by enforcing the provisions of this Constitution the courts which they now have and which in some measure relieves the people are to be destroyed and put out of force and effect. I sympathize with the delegates from Luzerne on this question and move to reconsider the vote by which the amendment of the delegate from Columbia was lost.

The CHAIRMAN. The Chair suggests to the gentleman from Tioga that that motion cannot now be made. The question pending before the House is on the adoption of the first division of the amendment of the gentleman from the city, and that must be disposed of in some way, either withdrawn or otherwise.

Mr. ARMSTRONG. It occurs to me that there is some misapprehension on this matter, and I do not see that the questions stand related at all. My objection to the amendment proposed by the delegate from Columbia was that it carried the meaning and operation of this section far beyond the intention, as I conceived, of the Convention, and did not give specific relief to Luzerne county. Now they have submitted, in the amendment proposed by Judge Woodward, that which is effective for all the relief that they require, and if that section is adopted it ends this dispute to their entire satisfaction. This is a section which they themselves have proposed, and if it be adopted it gives them all the relief they require without entering into a discussion about the construction of some other work which we have done which we do not wish to embarrass.

Therefore the reconsideration would involve us simply in the same class of questions as to the effect of striking these words out without giving specific relief to Luzerne county at all. Let them have their relief in the specific manner in which they have submitted it, and which does no harm to any other part of our work. If the gentleman from Indiana proposes something hereafter in relation to the courts of Cambria county, let it stand to be considered on its own merits; but for the present I think it is better to adopt the substitute offered by the gentleman from Philadelphia, (Mr. Wood-

ward,) inasmuch as it is giving Luzerne county all they ask.

Mr. PUGHE. Would it be in order now to make an amendment?

The CHAIRMAN. To the first division.

Mr. PUGHE. I would move to insert "December" instead of "January," 1875. That would give about two years instead of one.

The CHAIRMAN. Is there any objection to making that modification? ["No." "No."] The modification is made. The question before the committee is on the first division of the amendment of the gentleman from Philadelphia as amended.

The division was agreed to.

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

The CLERK read as follows:

"But nothing herein contained shall apply to the district court of Cambria county."

The division was rejected.

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

The section as amended was agreed to.

Mr. D. W. PATTERSON. Before we pass from the division of the schedule relative to the courts of Philadelphia and Allegheny, I wish to propose a change in section twenty-four. I find on reading section twenty-four that we have put the cart before the horse, and do not express what we designed it to be. I move to reconsider the vote on that section, and then I shall wish to put in the present words transposed as I will state. Perhaps the House will give unanimous consent to transpose them so as to make the section read:

"In the county of Allegheny, for the purpose of the first organization under this Constitution, the judges of the court of common pleas shall be the judges of the court number one, and the judges of the district court shall be the judges of the common pleas number two."

The CHAIRMAN. Will the committee unanimously agree to this alteration? ["Aye." "Aye."] By unanimous consent the change is made.

Mr. HAY. I should like to inquire whether it is the first part of the section or the latter part.

Mr. D. W. PATTERSON. The whole of the section, just transposing it.

Mr. HAY. Let it be read again.

The CHAIRMAN. The section as amended will be read.

The CLERK read the section.

Mr. HAY. I should like to inquire whether that includes by its terms a provision which of these judges shall be president judge, whether it provides for the present organization of the courts continuing.

Mr. D. W. PATTERSON. That is the first paragraph.

Mr. HAY. That is what I asked before, but I was told it was a substitute for the whole section. If it is changed after the first paragraph merely, I have no objection.

The CHAIRMAN. The Chair desires to know whether there is any objection to making this alteration. The Chair hears no objection; it will be done.

Mr. D. W. PATTERSON. That is a substitute for the first paragraph down to the sixth line and I wish to make the president judge in the sixth line read "judges," making it plural instead of singular.

The CHAIRMAN. There being no objection, the Clerk will be directed to make this alteration.

Mr. TEMPLE. I desire to offer an amendment to section thirty, in the fifth line.

The CHAIRMAN. That section is not before the committee. The twenty-ninth section is about to be read.

Mr. BIDDLE. Before we enter upon the subject of "aldermen and magistrates," I wish to offer an amendment to section twenty-five, as to which I think there will be no objection. It is to provide for what I think is rather a *casus omissus*.

The CLERK read the amendment, which was to add at the end of the twenty-fifth section the words "and existing courts in said counties shall continue with their present powers and jurisdiction until that date," so as to make the section read:

"The organization of the court of common pleas under this Constitution for the counties of Philadelphia and Allegheny, shall take effect on the first Monday of January, 1875; and existing courts in said counties shall continue with their present powers and jurisdiction until that date."

The CHAIRMAN. Is there any objection to that amendment?

Mr. ARMSTRONG. I desire to understand the effect of it. Will that retain the court of Nisi Prius?

Mr. BIDDLE. No; I do not think it will. I had no such intention.

Mr. ARMSTRONG. Let it be read again.

The CLERK read the amendment.

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The CHAIRMAN. That will cover the Nisi Prius.

Mr. DE FRANCE. I object.

The CHAIRMAN. Objection being made, the amendment is not now in order.

Mr. ARMSTRONG. I have no objection to the intention which I understand the gentleman to express, but I should like it to be stated so clearly that it will not include the Nisi Prius.

Mr. BIDDLE. I had no such intention, and I will modify it. I simply want to call attention to the necessity of some such provision as this.

The CHAIRMAN. The gentleman from the city will allow the Chair to suggest that there must be some motion to reconsider the vote on this section, or otherwise there can be no further discussion upon it.

Mr. ARMSTRONG. I am making no objection, if the Chair will merely suspend business until the gentleman modifies his amendment.

The CHAIRMAN. The Chair has no objection to doing that.

Mr. ARMSTRONG. I suggest to the gentleman to modify it by inserting "except the court of Nisi Prius," or some equivalent words.

Mr. HUNSICKER. I suggest that we go on regularly with these sections.

Mr. ARMSTRONG. We can proceed with the article, and the gentleman can renew his amendment afterwards.

The CHAIRMAN. The Clerk will read the twenty-ninth section.

The CLERK read as follows:

SECTION 29. In cities containing over fifty thousand inhabitants, all aldermen in office at the time of the adoption of this Constitution shall continue in office until the first Monday of April, 1875; at the election for city and ward officers, except Philadelphia, in that year one alderman shall be elected in each ward as provided in this Constitution.

Mr. S. A. PURVIANCE. I move to amend that section by striking out the words "first Monday of April, 1875," and inserting "expiration of their commissions." The section will then read: "In cities, containing over fifty thousand inhabitants, all aldermen in office at the time of the adoption of this Constitution shall continue in office until the expiration of their commissions."

I will state the reason why I offer this amendment. In the thirtieth section, in reference to Philadelphia and her magistracy, it is provided that the "term of

office of aldermen in said city, holding commissions at the time of the adoption of this Constitution, shall not be affected hereby." You give to the aldermen of this city their term. This section, number twenty-nine, as it now stands, fixing the termination of the commissions of the aldermen of Pittsburg and Allegheny in April, 1875, cuts off about one-third of the terms of the aldermen of the cities of Pittsburg and Allegheny. The insertion of the words which I propose simply carries them out to the end of their commission and puts them on an equality with the magistrates mentioned in the section immediately below. I therefore hope the amendment will be adopted.

Mr. HAY. In my opinion the adoption of this amendment will be a serious mistake. While it is true that the terms of office of some of the aldermen now in commission in the cities of Pittsburg and Allegheny will by the operation of this section of the schedule be somewhat abbreviated, yet it is also true that it will do less harm, and be less objectionable, I think, to adopt the provision in the shape in which it now stands than to adopt the amendment which is proposed. We are reducing the number of aldermen in office in these cities. If all are continued in office until the first Monday of April, 1875, a year and a half from this time, and then a new election takes place, all the persons now in commission will stand upon an even footing and equality. They can all be candidates for the one aldermanic office which will thereafter exist in their respective wards; whereas if you permit all their commissions to continue until their expiration, some commissions will expire one or two years before others in some wards, and the persons whose terms so expire cannot then be candidates for election for these positions which have been provided for, and it may be that this fact will create an unnecessary opposition against this provision, and incidentally against our whole work. If the terms of office of all are permitted to expire at the same time, each one will be remitted to his chance at a new election, and each one will think that his chance for an election to the single aldermanship is as good as that of any of the others, and no opposition would therefore reasonably exist to such an arrangement.

Mr. S. A. PURVIANCE. I have to say, in reply to my colleague, that I hold in my hand a letter from a very intelligent

reformer of Allegheny city, one who is a real friend of reform. He says this:

"I find also that the commissions of more than one-third of the aldermen of the two cities expire in 1876, and if you elect them all out of office one year before the expiration of their term, probably many of them will oppose the adoption of this Constitution."

It seems to me that there is no reason why you should save the terms of the aldermen of the city of Philadelphia, and then immediately, in contact with this provision, cut off the terms of the aldermen of Pittsburg and other cities having a population of over thirty thousand.

Mr. TEMPLE. It strikes me that if this section is adopted as it is printed, the effect will be that certain persons holding the office of alderman in cities such as are described in the section would have their terms of office extended. For instance, suppose an alderman's term expires on the first day of January next after the adoption of this Constitution, by this section his time will be extended until April, 1875. If this is the desire of the Convention, I have no objection to it. I have spoken to several members of this Convention on the subject, and they say that such is not the intention; but certainly, by the wording of this section, certain persons who are holding positions as aldermen in this city would have their terms extended for one year and a half. If such is the intention of the Convention I have no objection. I have no amendment to offer to this section; I have to the next.

Mr. D. W. PATTERSON. I merely mention that the Committee on Schedule desired to accommodate the people of Pittsburg, and the reason why they drew up this section in this way was because all the delegates from this city who took any interest in this subject before the committee recommended this mode to cut off the commissions of their aldermen on the first Monday of January, 1875. They maintained that two-thirds of the commissions of the existing aldermen would terminate at that time, and only about one-third of them would still be pending. They also stated that out of this one-third a great many would like to be competitors in the election of a single alderman, and it would give them all a chance to be competitors under the new Constitution, and also give the people the opportunity to select out of the officers those whom they most desired. Therefore it seemed

that that section was wise, and that is the reason why it was reported in this way. Of course, the Committee on Schedule have no preference particularly about it, and are willing to be guided entirely by the wishes of the Convention.

Mr. HOWARD. I do not suppose that the Convention consider it any great subject of reform that we should legislate a few aldermen in the city of Pittsburg out of office about a year before their terms would expire. This provision certainly makes a very radical change in the election of aldermen in the future, even if you accept the amendment offered by my colleague from Allegheny, (Mr. S. A. Purviance,) to allow those that are in office to remain in until their commissions expire. Heretofore we have elected two aldermen for each ward. After the expiration of the commissions of the aldermen who are now in office, their number will be reduced one-half, and after that there will be but one alderman elected in each ward. That I believe is a good reform. I believe that one alderman in a ward will be sufficient for the transaction of all the business required of these officials, but I do think that it would be right to allow those that are in office to hold until their commissions expire. Men who have been elected by the people to an office will look upon it as a great hardship, whatever other individuals may think about it, to be legislated out of office; and I believe that it would be far better to allow the commissions of these officers to expire in the ordinary course, and then to let the provisions of this Constitution go into effect.

Mr. EWING. I would say nothing on this subject were it not that, with some of my colleagues, I am somewhat responsible for the clause as it stands. It was suggested to the Committee on Schedule, after consultation with some of our citizens at home and after consultation also with a number of the aldermen, that several of the aldermen whose terms would expire before 1875—if not nearly all of them—would prefer their terms shortened in order that they might have a chance to compete for the single aldermanship in the ward. That struck me as being about the best arrangement that could be made. 1875 would extend the terms of a very few aldermen for a year. It might shorten the terms of some others for a year; but at the time this was suggested to the Committee on Schedule, I believe that every alderman whom I had

consulted preferred this mode, and I have in my possession now letters from quite a number of them in favor of this proposition.

I may say, also, that a letter in my possession from the alderman referred to by my colleague (Mr. S. A. Purviance) was decidedly in favor of this proposition of all going out in 1875. It would harmonize things and make less opposition to the Constitution than any other arrangement would make. My own judgment is decided that this is as nearly right as we can make it; but I have no particular objection to putting 1876 in if it is thought best. That will extend the tenure of quite a number of aldermen, extending some for two years. My judgment is that the arrangement reported by the Committee on Schedule will come nearer to harmonizing this than anything else; but I am not particular about it.

The CHAIRMAN. The question is upon the amendment of the gentleman from Allegheny (Mr. S. A. Purviance.)

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

The CHAIRMAN. The section as amended is before the committee.

Mr. HAY. I hope the section will now be read as amended, in order to show how absurdly it reads.

Mr. S. A. PURVIANCE. I wish to perfect the section. It now becomes necessary to make an additional amendment to strike out down to the word "one" in the fourth line, and insert, "and as their terms of office shall expire, one alderman shall be elected in each ward as provided in this Constitution." That makes it right.

Mr. LITTLETON. That will not answer, because there are two aldermen in each ward at the present time as I understand.

The CHAIRMAN. The section as proposed to be amended will be read.

The CLERK. The section will read as proposed to be amended:

"In cities containing over fifty thousand inhabitants, all aldermen in office at the time of the adoption of this Constitution shall continue in office until the expiration of their commissions, and as their terms of office shall expire, one alderman shall be elected in each ward as provided in this Constitution."

Mr. HANNA. I move to amend by inserting the words, "except in Philadelphia."

Mr. BIDDLE. That amendment is necessary.

The CHAIRMAN. Does the gentleman from Allegheny accept the suggestion?

Mr. S. A. PURVIANCE. Yes, sir.

The CHAIRMAN. The amendment will be so modified. The amendment now before the committee is that moved last by the gentleman from Allegheny, (Mr. S. A. Purviance,) with a proviso that it shall not apply to the city of Philadelphia.

Mr. EWING. I want some information. If I heard the amendment aright, it provides that aldermen shall be elected as the terms of present aldermen expire. I want to know when we are to be reduced to one alderman in a ward.

Mr. S. A. PURVIANCE. I suggest to my colleague to let this go to second reading and we can examine it in the meantime.

Mr. HAY. I do not intend to oppose the adoption of this amendment after the adoption of the previous amendment; but I do want to say this—that by the adoption of the previous amendment this Convention has excited a great deal more opposition than it has calmed, by providing that all the aldermen now in commission in Pittsburg and Allegheny shall continue in office until the expiration of their respective commissions. They have prevented by this amendment a great many active men from being candidates for these positions in 1875. They have thrown them out of office; and their terms expiring then or before then, they will remain out of office without the possibility of being candidates again for one or two years. The knowledge of that fact will probably cause them to oppose any provision which will have any such result. The section is a great deal better in its operation as it was reported from the Committee on Schedule, and I think the Convention in following the lead of a variable so-called aldermanic reformer in the city of Allegheny has done a great deal of harm to this instrument.

The CHAIRMAN. The question is on the amendment.

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

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

The section as amended was agreed to.

The CLERK read the next section as follows:

SECTION 30. In Philadelphia, "magistrates" in lieu of aldermen, to be elected under this Constitution, shall be chosen

at the election in said city for city and ward officers in the year 1875; their term of office shall commence on the first Monday of April succeeding their election.

The term of office of aldermen in said city, holding commissions at the time of the adoption of this Constitution, shall not be affected hereby.

Mr. TEMPLE. I desire to offer an amendment in the fifth line, to come in after the word "holding," inserting "or entitled to," so that it will read: "The term of office of aldermen in said city, holding or entitled to commissions at the time of the adoption of this Constitution, shall not be affected hereby."

There have been recently several persons elected to the office of alderman in the city of Philadelphia, and if the Constitution should be adopted before the first of January, at the time they get their commissions, they would not have the right to hold office; and it does not seem fair that these gentlemen who have been just elected should be deprived of that right.

Mr. DARLINGTON. Why have they not taken their commissions?

Mr. TEMPLE. They cannot obtain their commissions until the first of January. If this amendment is adopted it will treat all these aldermen alike.

Mr. D. W. PATTERSON. That is all right.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The section as amended was agreed to.

The CLERK read the next section as follows:

SECTION 31. All persons in office in this Commonwealth at the time of the adoption of this Constitution, or any part thereof, shall continue and hold their respective offices until the term for which they have been elected or appointed shall expire, unless otherwise provided in this Constitution, or necessary to carry into effect its provisions.

Mr. ARMSTRONG. The words "continue and," in the second line, seem not to be necessary; "shall hold their respective offices," &c., is enough. If they hold office they continue in office.

The CHAIRMAN. Shall unanimous consent be given to strike out the words "continue and?" Is there any objection? ["None."] The words will be stricken out.

The section as amended was agreed to.

Mr. BUCKALEW. I desire to offer a new section to come in at this point, as it is the proper place for it.

SECTION—The seventh article of this Constitution, prescribing an oath of office, shall take effect on and after the first day of January, 1875.

Mr. D. W. PATTERSON. That is right.

Mr. BUCKALEW. That oath of office is inapplicable to members of the Legislature already chosen, and to officers chosen already; and the great body of them, I presume, cannot conscientiously take it. There ought to be notice before they are candidates for office, that they will be subject to such an oath. I have selected the first of January, 1875, as the time when it shall take effect upon the new Legislature.

The amendment was agreed to.

The CLERK read the next section as follows:

SECTION 32. County commissioners and county auditors shall be elected under this Constitution at the general election in the year 1875, and such officers in office at the time of the adoption of this Constitution shall continue until their successors are duly qualified, at which period the terms of those in office shall expire.

Mr. MANN. I desire to ask the chairman of the committee who has this article in charge what would be the objection to amending that so that as to abolish the office of jury commissioner? I understood the gentleman from Columbia to give it to the Convention as one argument in favor of the section of the Constitution providing for electing county commissioners by general ticket, that it would virtually abolish the office of jury commissioner. I myself prefer it done in the schedule.

Mr. BUCKALEW. Mr. Chairman: I recall the fact now that I introduced a clause in the schedule containing that provision. I do not know whether the committee had it before them or whether it was lost; at all events it is not reported. I will say to the gentleman that I am in favor of amending this on second reading when we shall have time.

Mr. MANN. Very well.

Mr. LILLY. This section, it seems to me, should be amended in this regard, that the county commissioners and county auditors elected next year shall be elected for two years instead of three. Then the next year they will be elected for three years. If we do not do this,

there may be some mistake; there may be four county commissioners in a county. The commissioners elected next year in each county should be elected for two years, and it should be so fixed in the schedule, instead of three years, or else he will hold over.

Mr. BUCKALEW. I will state to the gentleman that I will offer a section on second reading to correct that point.

The CHAIRMAN. The question is on the section.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 33. All judicial, State and county officers in this Commonwealth in office at the time of the first election of their successors under this Constitution, shall continue in office until their successors are duly elected and qualified unless otherwise provided in this Constitution.

Mr. ALRICKS. There does not appear to be any necessity for the words "in this Commonwealth," in the first line.

Mr. ARMSTRONG. I think the thirty-first and thirty-third sections ought to be consolidated in some way; there is no necessity for duplicating them.

Mr. ALRICKS. There does not appear to be any necessity for the words "in this Commonwealth." Of course it cannot apply elsewhere. I move to strike out those words.

The amendment was agreed to.

Mr. CORSON. What is the use of this section at all? The latter clause of section thirty-two provides that "such officers in office at the time of the adoption of this Constitution shall continue in office until their successors are duly qualified." Now, can we not make that read: "And all officers in office at the time," and that will cover the whole of the thirty-third section; and the thirty-first section covers it:

"All persons in office in this Commonwealth at the time of the adoption of this Constitution."

I hope therefore that this will be voted down."

Mr. LILLY. Then the thirty-second section is inconsistent with the thirty-first.

The CHAIRMAN. The question is on the adoption of the thirty-third section.

The section was rejected.

The CLERK read the next section as follows:

SECTION 34. All city, ward, borough and township officers at the time of the

adoption of this Constitution, and at the first election under it, shall continue in office until their successors shall be duly elected and qualified, unless inconsistent with this Constitution.

Mr. BIDDLE. I move to insert before the word "city" in the first line the words, "judicial, State, county."

Mr. D. W. PATTERSON. I hope that amendment will prevail as the former section was voted down.

Mr. BIDDLE. It will read then: "All judicial, State, county, city, ward, borough and township officers."

Mr. ARMSTRONG. Would not the words "municipal officers" indicate those officers?

Mr. BIDDLE. Judicial officers are not municipal officers.

Mr. ARMSTRONG. I mean the city officers. Instead of saying in detail "all city, ward, borough and township officers." would it not be better to say, "all municipal officers."

Mr. BIDDLE. My amendment was not pointed to those words; but as we voted down section thirty-three, if we intend to retain section thirty-four, we ought to have it in words covering State officers. It may be—I do not say that it is so; gentlemen may settle that for themselves—that section thirty-one covers it. It may not be so; but if we have a provision as to city, ward, borough and township officers, surely we should include judicial, State and county officers. That is all I want.

The CHAIRMAN. The question is on the amendment of the gentleman from the city (Mr. Biddle.)

The amendment was agreed to.

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

The section was agreed to.

The CLERK read the next section as follows:

SECTION 35. All State, county, city, ward, borough and township officers in office at the time of the adoption of this Constitution, whose compensation is provided for by fees, and not by salaries, shall continue to receive the fees allowed them by law, until the expiration of their respective terms of office.

Mr. LITTLETON. I find that there are some officers compensated for by fees that have small nominal salaries attached to them. Perhaps this section will not meet such a case as that, and therefore I will offer an amendment which will make the section read that all these officers whose

compensation is not provided for by salaries alone shall continue to receive the compensation allowed them by law until the expiration of their terms of office; so that it will be distinctly understood to what it refers.

Mr. D. W. PATTERSON. Where does the amendment come in?

Mr. LITTLETON. My amendment is in the second line after the word "is" to insert the word "not;" at the end of the same line strike out the words, "fees and not by;" in the third line after the word "salaries" insert the word "alone," and in the same line to strike out the word "fees" and insert "compensation." I ask the Clerk to read the section as it will stand if thus amended.

The CLERK read as follows:

"All State, county, city, ward, borough and township officers in office at the time of the adoption of this Constitution, whose compensation is not provided for by salaries alone, shall continue to receive the compensation allowed them by law, until the expiration of their respective terms of office.

Mr. LITTLETON. The effect of that will be to say that in cases of offices compensated by fees, even if there should be a nominal salary attached to them, the salary and the fees shall be received as the compensation now provided until the expiration of the term of office. Where the salaries are regulated by the fees, this question is not of so much consideration, because the salaries are changable and can be arranged by act of Assembly or by whatever jurisdiction may have control over them.

Mr. DARLINGTON. As I understand, this will also cover the case of the small compensation given to registers of wills in the various counties in the shape of a commission which they receive for collecting the collateral inheritance tax, and will save that to them.

Mr. LITTLETON. And save it to the different prothonotaries, registers, recorders and other officers.

The amendment was agreed to.

The section as amended was adopted.

The CLERK read the next section as follows:

SECTION 36. All State and judicial officers heretofore sworn, and whose terms shall extend to the date at which this Constitution shall be adopted, shall severally, within one month after such adoption, take and subscribe an oath (or affirmation) to support this Constitution.

and all other officers within the State shall be firmly bound by its provisions.

Mr. ARMSTRONG. Instead of the words in the second line "shall be adopted," I think it would be better to say "shall take effect," because we have fixed the time of the taking effect of the Constitution specifically, provided the time, therefore, when it may be adopted by a vote is not important. I move to strike out the words "be adopted," and insert the words "take effect."

The amendment was agreed to.

Mr. DARLINGTON. I will ask unanimous consent to strike out the word "firmly" in the fourth line. The word "bound" covers everything.

The CHAIRMAN. Is there any objection to that change? ["No."] There being no objection, the Clerk will be directed to make that alteration.

Mr. HUNSICKER. I move to strike out after the word "Constitution" in the fourth line the words: "and all other officers within the State shall be bound by its provisions." That seems to be a superfluous sentence.

Mr. ARMSTRONG. The words are unnecessary.

The CHAIRMAN. Is there any objection to that amendment? There being no objection, the Clerk will be directed to make the alteration.

Mr. ARMSTRONG. In the first and second lines I move to strike out the words, "whose terms shall extend to the date at which," and insert in lieu thereof, "in office when," so that it will read: "All State and judicial officers heretofore sworn and in office when this Constitution shall take effect, shall severally," &c.

Mr. D. W. PATTERSON. That is shorter.

The CHAIRMAN. Is there any objection to that amendment? No objection being made, the Clerk will make the correction accordingly.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 37. After the adoption of this Constitution, no municipal or other corporation whatever, shall, by virtue of its charter or the laws heretofore passed, possess or exercise any powers repugnant to the provisions of this Constitution.

Mr. DARLINGTON. It strikes me that is going a little further than we have any right to go. We cannot here declare what shall be the effect of this Constitution upon the contracts or charters which

are protected, probably, under the Constitution of the United States. To pass a section of this kind seems to me like making an effort to give greater effect to our work than it admits of, or than can be given to it by any power under the sun. I think we had better negative that section and leave the Constitution to its own operation.

Mr. MACVEAGH. I suppose this section is intended to prevent misunderstanding as to the exercise of powers heretofore granted but not exhausted by municipal corporations; for instance, power granted, that has been dormant, to contract loans and to act in various matters contrary to the provisions of this new Constitution, but in accordance with the provisions of the existing Constitution. I confess I do not see the necessity for it, and whenever I do not see a clear necessity for a provision in this Constitution, I vote against the insertion of it.

Mr. ARMSTRONG. Does not the article on the Legislature and the article on corporations provide that any unused powers of that kind shall be forfeited?

Mr. MACVEAGH. I think there is such a provision. Whether it is confined to private corporations or not, I am not sure; but even if no such provision exists, I do not believe that a municipal corporation could exercise a legislative authority conferred before the adoption of this Constitution when the Legislature at that time would not be competent to confer it, and therefore I shall vote against the retention of this section unless some reason can be given for it that I have not heard.

Mr. J. W. F. WHITE. If powers have been granted to a municipal corporation by an act of Assembly that have never been exercised, without this section I apprehend the municipal corporations afterwards could not exercise such powers. But suppose a municipal corporation is in the act of exercising some of those powers, in the way of completing or carrying on some public improvement; if we insert this section will it not stop them right in the middle of that improvement? Some one says "it ought to." I apprehend not. Suppose a water works or some improvement of that kind is half completed, or being completed at the time of the adoption of this Constitution under some special act of Assembly; do you intend to stop it, and to leave everything in confusion? Certainly you do not. I can see no force, no real virtue in this section, but it may work mischief in

ways that very few of us imagine at this time. I therefore shall vote against the section.

Mr. MINOR. The case supposed by the gentleman from Allegheny is actually in existence in the city where I reside. It is just in the midst of the erection of water-works which are almost completed, just in the midst of the construction of sewers, and if this section has any force at all, it would stop us right there. That is being done under special acts of the Legislature, passed one last winter, and the other the winter before; and where shall we be? Absolutely torn to pieces. I think we had better leave this and let the Legislature by general law regulate it hereafter. Now we are striking down rights instead of preserving rights.

Mr. BRODHEAD. I hope that this section will be stricken out, if for no other reason because it is not consistent with section thirteen of the article on railroads and canals, where we have directly admitted that certain charters would not be affected by providing that the companies holding them shall not have the benefit of any general law which shall be passed thereafter. It is in conflict with that section and I hope it will be stricken out.

Mr. D. W. PATTERSON. I am not at all tenacious about this section, though I do not have any fears about it. The idea and indeed part of the words were suggested by a distinguished gentleman who was formerly a member of this body. It was urged in conversation with him that the courts heretofore, under the existing Constitution, had declined to interfere in the way of injunction or otherwise when grants were made by the Legislature manifestly against the provisions of the Bill of Rights. He urged that we had no constitutional footing to apply for an injunction. For instance, no gentleman who has considered the course of legislation for the last ten or fifteen years will, I apprehend, dispute the fact that grants have been made under legislative acts exceeding the provisions of the Bill of Rights extending franchises, giving corporations power to take your property or mine, of course by paying compensation, under the right of eminent domain, when the grants were not for public benefit or public use but for private gain and private aggrandizement. The Bill of Rights only permits the Legislature to confer such franchises under the right of eminent domain for public uses and public benefits, and in the opinion of this cele-

brated jurist this section was necessary to require the courts to inquire into the subject of whether these grants were for public uses or for private, and whether they conflicted with the organic law or not. He and a great many more of this Convention thought that the courts ought to have some footing in order to enable the judiciary to issue injunctions of this kind, and to distinguish when the act was passed whether it actually conflicted with the existing Constitution or whether the grant was made according to the Constitution, giving corporations the right to take your property and mine for public use or not, or whether it was not actually taken for private gain and private advantage.

As I said, this idea and part of the language were suggested by the gentleman referred to. Of course it cannot conflict with the grants and contracts now existing. I do not see any harm that can be done by the section, but as some gentlemen are afraid about it and it touches a subject about which many delegates on this floor are sensitive, probably we had better not adopt it. I will vote for it, but I am not very particular about its adoption, although I think it is a wise provision.

The CHAIRMAN. The question is on the section.

The section was rejected.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 38. The General Assembly at its first session, or as soon as may be after the adoption of this Constitution, or any part thereof, shall pass such laws as may be necessary to carry the same into full force and effect.

Mr. MANN. What is the use of this section? If this was the Constitution of the United States applying to Congress, there might be some use in it; but what possible use is there in applying it to the Legislature of Pennsylvania? It does not add anything to their power to pass all these laws. It does not specify even any particular law that they shall pass, and it is a mere piece of waste paper.

Mr. MACVEAGH. I really think that this section is unnecessary. If the very competent acting chairman of the Committee on Schedule can give us any reason for its insertion, I shall be glad to hear from him; but certainly, as at present advised, there is no necessity for it whatever.

Mr. D. W. PATTERSON. The reason why this section was introduced here was because at the end of several articles of this Constitution, as passed by this body—some of which were considered experimental, it is true—the advocates of them deemed it essentially necessary to put at the end of those articles a section instructing the Legislature to carry into full force and effect those provisions. There are many articles that we have passed which have not such provisions to them, although they apply penalties in case of violation; and hence it was supposed by a number of gentlemen on this floor that there should be such a section providing here that the General Assembly shall pass laws such as may be necessary to carry the Constitution into full force and effect. Of course it would cover all that we have overlooked.

Mr. ARMSTRONG. The Constitution is of course a declaration of general principles which would be very difficult to enforce without much matter of detail. This section, if adopted, cannot do any harm, and I think it would be necessary in order to give practical operation to some clauses in the Constitution to provide that legislation shall be made. Although it is not competent for the Supreme Court to issue its *mandamus* to the Legislature to enforce legislation, this section will have its effect, and I think it will be well to retain it now. At least do not let us now strike it out, but let us consider it in connection with the whole article on second reading. Then, if we think it wise to strike it out, we can do so. There are many matters of detail which we have provided for in the Constitution which the Legislature must pass some laws to carry into effect.

Mr. HUNSICKER. I would like to know whether the words at the end of the Constitution are going to make the Legislature do it. The section says that they shall do it as soon as may be after the adoption of the Constitution. Who is to decide that question?

Mr. ARMSTRONG. As I have said before, I do not think the Supreme Court would issue its *mandamus* to enforce legislation; I do not think that this section is very important; and yet I think we had better retain it at least for the present. The gentleman from Washington (Mr. Hazzard) makes the suggestion that although the Legislature may not enforce this section, still they are sworn to obey

the Constitution, and if they do not obey it it will be a violation of their oaths.

Mr. D. W. PATTERSON. I think it is a very important section.

The CHAIRMAN. The question is on the section.

The section was agreed to, there being, on a division, ayes fifty-five, noes eleven.

Mr. BIDDLE. I now move to reconsider the vote by which section twenty-five was agreed to, for the purpose of amending it in the way I have indicated. I voted with the majority, and I presume some gentleman who voted with me will second the motion.

Mr. EWING. I second it.

The CHAIRMAN. Did the gentleman from Allegheny vote in the affirmative?

Mr. EWING. I did.

The motion to reconsider was agreed to.

Mr. BIDDLE. I now offer as an amendment to section twenty-five, to come in at the end, the following:

“And existing courts in said counties shall continue with their present powers and jurisdiction until that date.”

By the fifth section of the judiciary article it is provided that “all the jurisdiction and powers now vested in the district court and the court of common pleas,” &c., are transferred to the new courts. Last night, in section one of the schedule, we provided that this Constitution should go into force on the first of January, 1874. By section twenty-six of the schedule, we have provided that “the causes and proceedings pending in the court of Nisi Prius, common pleas and district court in Philadelphia, shall be tried and disposed of in the court of common pleas.”

“The records and dockets of said courts shall be transferred to the prothonotary’s office of said county.”

By section twenty-five, to which I have offered this pending amendment, we have provided that while the Constitution is to go into effect on the first day of January, 1874, the organization of the county courts of Allegheny and Philadelphia shall not take effect until 1875. Therefore there will be one year exactly after the adoption of this Constitution, supposing it is adopted, that we shall be without any courts unless we continue our present courts. It is very true that somewhere in this schedule we have provided that the judges shall continue in office, but we know very well that the last decision of the Supreme Court on this sub-

ject decides that we may have a constitutional court, and yet no judge to carry it on. We may therefore have judges and no courts in which they can exercise their jurisdiction.

I want to provide for this apparent omission. In regard to the court of Nisi Prius, upon reflection I am satisfied that the language used by me would cover that court. I did not mean to cover it at the time. I meant to apply my language exclusively to the district court and court of common pleas; but upon reflection I am bound to say, in candor, that it does cover the court of Nisi Prius, and I think it ought to, for this reason: By section twenty-six of this schedule we have transferred all the causes and proceedings pending in the court of Nisi Prius, together with the court of common pleas and district court, to the new court of common pleas. The new court of common pleas, as I have just shown, will not go into effect until a year from the first of January, 1874. If therefore the business of the Nisi Prius, as well as the business of the district court and the court of common pleas, is not in this manner included in this amendment, we shall have all the cases transferred from those courts to a court that can take no action upon them for one year, and it will be a great injustice to the suitors in our county, and there can be no objection, as I conceive, to keeping things as they are until the organization of the new court of common pleas in our county. I feel sure that every gentleman on this floor from Philadelphia will unite with me in the support of the amendment, and I say to gentlemen who think that the court of Nisi Prius should be abolished, that this amendment will really only keep it in existence until the new court which this Convention has created to take charge of its business can be properly organized and put in operation. It will not effect the middle district or the western district, because we know very well that there is no Nisi Prius established there. The judges all sit in banc in these sections of the State. I trust the amendment will be adopted.

Mr. ARMSTRONG. On reflection, I am entirely satisfied that it is right these courts should be continued for the purpose of clearing up the old business, but I propose to add this amendment at the end of the section proposed:

"But no new cases shall be instituted in either the court of Nisi Prius or in the

district court, after the adoption of this Constitution."

Mr. BIDDLE. If that were limited to the Nisi Prius, I should be satisfied. In the district court, as the Chairman of the committee of the whole knows—

Mr. ARMSTRONG. I will so modify it.

The CHAIRMAN. The gentleman from the city accepts the amendment?

Mr. BIDDLE. Yes, sir, so far as the Nisi Prius is concerned.

Mr. D. W. PATTERSON. I think it ought to be adopted.

Mr. MACVEAGH. That I think is entirely satisfactory.

Mr. ARMSTRONG. The proposed amendment then would be:

"But no new cases shall be instituted in the court of Nisi Prius after the adoption of this Constitution."

I think with that modification it ought to prevail.

The CHAIRMAN. The question is on the amendment as modified by the gentleman from the city (Mr. Biddle.)

The amendment was agreed to.

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

The section as amended was agreed to.

The CHAIRMAN. The schedule is gone through with.

The committee rose, and the President having resumed the chair, the Chairman (Mr. Cassidy) reported that the committee of the whole had had under consideration the article on the schedule and reported it with amendments.

The PRESIDENT. The amendments will be read.

Mr. MACVEAGH. If it is the sense of the Convention, I would move that the reading of the amendments be dispensed with and that the Convention proceed with the second reading of this article.

Mr. HAY. I want to suggest that if the amendments were read we could all make them upon our copies and then we should be ready to proceed with the second reading.

Mr. ARMSTRONG. Can it not be printed and laid on our tables by to-morrow morning?

Mr. D. W. PATTERSON. I want it printed. There are a great many manuscript amendments.

Mr. LILLY. I move that the schedule be printed and laid on our tables to-morrow morning.

Mr. HARRY WHITE. I move that we proceed to the second reading.

The PRESIDENT. It is moved that the article be laid on the table and printed with the amendments by to-morrow morning.

Mr. MACVEAGH. May I make an inquiry? I should like to know from the Clerk whether or not that is possible. I do not think that can be done.

The CLERK. Permit me to make a short statement. This evening I saw Mr. Gillin, the printer, and he said that he thought he could have it on our tables in the morning, after I told him I thought it would be through committee of the whole to-night.

Mr. MACVEAGH. Then I trust that motion will be adopted, that it will be printed and laid on members' desks to-morrow morning.

The PRESIDENT. That will be done without a motion.

Mr. HARRY WHITE. I think we had better go on with second reading.

Mr. LILLY. I move that the Convention do now adjourn.

Mr. HARRY WHITE. I call for the yeas and nays.

Mr. D. W. PATTERSON. I second the call.

Mr. CURTIN. If the call for the yeas and nays is withdrawn I suggest to the delegate from Indiana that if the additional section I offered to the executive article provokes discussion let it be discussed to-night. Suppose we dispose of that to-night. ["Agreed!" "Agreed!"]

The PRESIDENT. Will the Convention agree to proceed with the consideration of the section offered by Mr. Curtin?

Mr. HARRY WHITE. What became of my call for the yeas and nays.

The PRESIDENT. The Chair understood it to be withdrawn.

Mr. LILLY. I withdraw the motion to adjourn for the present.

Mr. HARRY WHITE. Then I withdraw the call for the yeas and nays.

THE EXECUTIVE.

The PRESIDENT. It is moved that the Convention proceed to the consideration of the section offered by Governor Curtin.

The motion was agreed to.

The CLERK read the section, as follows:

"The Governor shall have power to convene the Senate in extraordinary session by proclamation for executive business."

Mr. CURTIN. If it is necessary to make an explanation I will do so. The Conven-

tion will remember that the Senate hereafter is to meet only once in two years, and under the article on the Executive Department we make the Senate part of that department, and all appointments made by the Governor have to be ratified by the Senate, and such a condition of things might occur as to make it necessary that the Governor, in making appointments, should have the presence of the Senate in the absence of the whole Legislature, and he is given the power to call extraordinary sessions of the Senate for executive business if he deems it necessary.

Mr. BUCKALEW. I desire to put on record an additional remark on another point in the same connection, which is that under the article relating to impeachment and removal from office, large numbers of officers are liable to be removed upon an address to the Governor of two-thirds of the Senate. Therefore, it is necessary that that body should be occasionally convoked if the removal power is to be exercised.

Mr. MANN. I do not understand how it comes that we have this matter before us in order. It is an entire new section, is it not?

Mr. CURTIN. Yes, sir, introduced to-day.

Mr. MANN. How, then, can we take it up in this manner? If we can take up a new section upon this article, we can upon any other article. I submit that the point of order raised this morning by the gentleman from Montgomery covers this question as well as anything in the shape of a resolution, and if we are to pass upon it we must go into committee of the whole and give it three several readings.

The PRESIDENT. The Chair was about asking whether the Convention would dispense with going into committee of the whole or not.

Mr. DARLINGTON. Still I understand the objection made this morning requires this proceeding. This proposition may be submitted and referred to the Committee on the Executive, of whom the gentleman himself (Mr. Curtin) is chairman. Then he will make a report. I do not understand that it has come from the committee yet.

Mr. CURTIN. Yes, sir; it has come from that committee.

Mr. DARLINGTON. Very well, then.

The PRESIDENT. Will the Convention agree to go into committee of the whole on this section? ["Aye." "Aye."]

The Convention resolved itself into committee of the whole, Mr. Green in the chair.

The CHAIRMAN. The committee of the whole have had referred to them a section, which will be read.

The CLERK read as follows:

"The Governor shall have power to convene the Senate in extraordinary session, by proclamation, for executive business."

The CHAIRMAN. Will the committee agree to the section? ["Aye."] It is agreed to.

The committee rose, and the President having resumed the chair, the Chairman of the committee of the whole (Mr. Green) reported that the section had been under consideration and agreed to by the committee without amendment.

Mr. MACVEAGH. I move that we proceed to the second reading of the section.

The motion was agreed to, and the section was read the second time.

Mr. HUNSICKER. I move that the section be transcribed for a third reading.

The motion was agreed to.

Mr. DARLINGTON. I move now that it be referred to the Committee on Revision and Adjustment?

Mr. CURTIN. There is a general order of that kind.

The PRESIDENT. It will be so referred.

SALARIES OF MEMBERS, &c.

Mr. HAY. I ask leave at this time to make a report from the Committee on Accounts.

Leave was granted, and the report was received and read as follows:

"The Committee on Accounts and Expenditures of the Convention respectfully reports:

That the Convention having fixed the date of its adjournment on Friday, the thirty-first of the present month, the committee has prepared a statement showing the amounts of salary due to the members and officers for the remainder of the sessions of this body. In determining the amounts due to the members who have at different times occupied the same seats, the committee has apportioned between them the one salary fixed by the Convention, according to the time during which they were respectively members, considering the whole duration of the Convention as one year.

The committee also reports that the present members occupying the seats of

members who have died or resigned are entitled to be paid each the sum of fifty dollars for postage, stationery and contingencies under the provisions of the act of Assembly approved April eleventh, 1872; and that James P. Barr is entitled to mileage for one session at Philadelphia, amounting to seventy-one dollars.

The following resolutions are reported for the action of the Convention:

Resolved, That warrants be drawn upon the State Treasurer in favor of the different members and officers named in the statement appended to the foregoing report, for the amount placed opposite their respective names.

Resolved, That warrants be drawn in favor of James P. Barr for one hundred and twenty-one dollars for his mileage, postage, stationery and contingencies; and in favor of William Bigler, John C. Bullitt, Samuel Calvin, Henry Green, Lewis Z. Mitchell and Morton M'Michael for the sum of fifty dollars each for their postage, stationery and contingencies.

The resolutions were read twice.

Mr. D. W. PATTERSON. I merely rise to ask whether the names mentioned "in the within statement" include the members generally for the balance of their salaries?

Mr. HAY. There are one hundred and forty different names. Does the gentleman wish to hear them read?

Mr. D. W. PATTERSON. No; I only wish to know whether they are all there. I wish to know whether all the members are named in that section.

Mr. HAY. So far as my care could secure it, they are there.

Mr. D. W. PATTERSON. I heard no names read, but your statement will be sufficient.

Mr. HAY. It may be desirable that the members to whom salary has been apportioned should know what amounts are to be allowed them.

Mr. ARMSTRONG. I suggest that they can examine the report at the desk.

The resolutions were agreed to.

CONVENTION EXPENSES.

Mr. HAY. I have a further report to make from the same committee.

The CLERK read the report as follows:

The Committee on Accounts and Expenditures of the Convention respectfully report:

That the following accounts have been presented and examined, viz:

1. Walbert & Brother, for 21 tons coal, and putting in.....	\$153 00
2. J. E. Walraven, for draping the Hall of Convention in September, and materials therefor.....	81 90
3. James H. Orne, Son & Co., carpet for stairs.....	33 50
4. John M'Kinley, for repairing furniture.....	30 50
5. Smith & Campion, for repairing furniture.....	25 75
6. John A. Shermer, for introducing water from street, pipe and plumbing work.....	179 40
7. Shepperd & Arrison, shades and lambrequins for the president's room.....	78 00
8. E. C. Markley, printing done for Committee on House.	2 00
9. Philadelphia gas works, for gas used from July 19 to September 24, 1873.....	16 56
10. Philadelphia gas works, for gas used from September 24 to October 25, 1873.....	81 88
11. J. P. Lanning, for towels for use of Convention.....	11 71
12. T. F. Bradley, for soap.....	10 90
	<hr/>
	711 10

Resolved, That the accounts mentioned in the foregoing report, together amounting to the sum of \$711 10, are hereby approved, and that a warrant for said sum be drawn in favor of the Chief Clerk for the payment of the same.

Resolved, That when this Convention adjourns, the Chief Clerk make a correct and complete inventory of all the property in the use of the Convention belonging to the Commonwealth, excepting such books and papers as it may be necessary to preserve, and immediately thereafter sell the same to the best advantage, and pay the proceeds into the Treasury of the Commonwealth.

Mr. MACVEAGH. I should like to ask the chairman of the committee, for whose patient and laborious attention to his duties we are all thankful, whether these bills include all the expenses of this Convention, or whether anything will still be left for future auditing, and if so, whether it is the intention of that committee to audit everything so as to clean up the last dollar of our indebtedness.

Mr. HAY. These bills will not include everything that will have to be settled by this Convention. This report simply includes such bills as have been placed in the hands of the committee up to the present time. There will be, after this Convention adjourns, a settlement of the several accounts that have been made. There may be some little bills presented for various incidental expenses. There will be a bill presented for paper, there will be a bill presented for printing, for the balance of reporting, and for sundry other matters of that kind, which will have to be settled after this body adjourns.

Mr. STANTON. There will be a bill for gas also up to the time we adjourn. That account cannot be rendered until we are entirely through.

Mr. HAY. That is very true; but we have directed the gas used up to the twenty-fifth of the present month to be paid for in this report.

Mr. TEMPLE. I should like to inquire whether, under the wording of the second resolution, the furniture in this Hall is not to be sold, and the proceeds of the sale paid into the Treasury of the Commonwealth? It strikes me so.

SEVERAL DELEGATES. Oh, no; that belongs to the city.

Mr. TEMPLE. That is what I want to know.

The last two of these bills are certified to be correct by the Chief Clerk; the others, excepting the gas bills, by the Committee on House. They are therefore reported for payment. The articles mentioned in the bill of Sheppard & Arrison were furnished about the time of the commencement of the sessions of the Convention in Philadelphia, under the direction of members of the Committee on House, and as necessary to the complete furnishing of this Hall and its rooms, should have been paid by the city of Philadelphia, under the terms of its invitation. This not having been done, and the bill being for articles supplied to this body, it has been presented here and is believed to be correct.

The Committee also reports that at the time of the adjournment of this body there will be in its use and possession various articles purchased on its account, which should be disposed of to the best advantage for the benefit of the Commonwealth.

The following resolutions are accordingly reported for the action of the Convention:

The PRESIDENT. Nothing is to be sold but articles belonging to the Commonwealth.

Mr. HAY. I ask that the resolutions be considered separately.

The PRESIDENT. The first resolution is before the Convention.

Mr. DALLAS. Let it be read.

The CLERK read as follows:

Resolved, That the accounts mentioned in the foregoing report, together amounting to the sum of \$711 10, are hereby approved, and that a warrant for said sum be drawn in favor of the Chief Clerk for the payment of the same.

Mr. LILLY. The chairman of the committee did not answer all the questions of the gentleman from Dauphin, and I should like him now to answer whether there is any money left in hand to pay any debts hereafter?

Mr. HAY. I do not like to answer any inquiry of that kind, for I have not any money. [Laughter.]

Mr. LILLY. I mean, will there be any of the appropriation left after the payment of the bills already reported?

Mr. HAY. I made a statement with regard to that matter the other day, which was as full as I could then make it, and gave my best judgment on the question at the time. I am not prepared to guarantee that this Convention will not by its expenditures exceed the amount of the appropriation.

The PRESIDENT. The question is on the adoption of the first resolution.

The resolution was adopted.

The PRESIDENT. The second resolution will be read.

The CLERK read as follows:

Resolved, That when this Convention adjourns, the Chief Clerk make a correct and complete inventory of all the property in the use of the Convention belonging to the Commonwealth, excepting such books and papers as it may be necessary to preserve, and immediately thereafter sell the same to the best advantage, and pay the proceeds into the Treasury of the Commonwealth.

Mr. HANNA. I move to amend the resolution by adding, after the words "to the best advantage," the words "at public sale."

Mr. DARLINGTON. Oh no, that would not be to the best advantage.

Mr. CURTIN. I hope that will not be done. It would be very unpleasant to sell the Bibles at public sale. [Laughter.]

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

The PRESIDENT. The question recurs on the adoption of the resolution.

The resolution was adopted.

Mr. MACVEAGH. I move you, sir, as an additional resolution, unless it is objectionable to the chairman of this committee, that the chairman of the Committee on Accounts of this Convention be requested to inform the Auditor General, as soon after the adjournment of this Convention as convenient, of any bills which have come to his knowledge still due on account of this Convention, with his opinion as to the justice thereof, so that we may have a formal closing of our accounts with the State by somebody authorized to speak for us.

Mr. HAY. I am not prepared to make any reply to that suggestion, but I would prefer that it should be considered more deliberately than it is apt to be now. I am not prepared at present to say that I am willing to undertake any such labor.

After this body adjourns, I, in common with all the members of the Convention, probably will be very thankful to get back to my own legitimate labors, and I do not want to have my time taken up afterwards by business of this Convention.

Mr. MACVEAGH. It is not contemplated that the gentleman shall take up his time afterwards, but that he shall get the information here, and at his leisure give it to the Auditor General.

Mr. PUBMAN. I suggest to the gentleman from Dauphin that if we resolve to meet at Harrisburg, the accounts can be settled and adjusted there.

Mr. MACVEAGH. Probably that will answer if there is to be no final adjournment now. I withdraw the resolution.

Mr. LILLY. I move that the Convention adjourn.

The motion was agreed to, and, at nine o'clock and thirteen minutes P. M., the Convention adjourned until to-morrow morning at half-past nine o'clock.

ONE HUNDRED AND SEVENTY-FIFTH DAY.

WEDNESDAY, October 29, 1873.

The Convention met at half-past nine o'clock A. M., Hon. John H. Walker, President, in the Chair.

Prayer by Rev. J. W. Curry.

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

THE LEGISLATURE.

Mr. D. N. WHITE. I am instructed to make the following report from the Committee on the Legislature:

The Legislative Committee having had referred to it the amendment to section sixteen of the legislative article, offered by Mr. Broomall, beg leave respectfully to report:

That having carefully considered the matter, it recommends that after the word "ratio" in the seventh line the following be inserted, to wit:

"Except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths of a ratio."

The committee also recommend that the following words be stricken out, to wit:

"The county of Delaware may be united with adjoining wards of Philadelphia to form a district."

The section will then read as follows:

"But no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths of a ratio; and no city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators."

All which is respectfully submitted.

D. N. WHITE, *Chairman*.

The PRESIDENT. The report is before the Convention.

Mr. D. N. WHITE. I move that the Convention resolve itself into committee of the whole to consider the amendment.

Mr. LILLY. I second the motion.

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

The CHAIRMAN. The committee of the whole have had referred to it a report from the Legislative Committee, which will be read.

The CLERK read the report.

The CHAIRMAN. The question is on the section.

Mr. PURMAN. It does seem to me that the section ought not to pass. It would be a great mistake if the Convention at this time, after what has been done here, make this change. I have no harsh or unkind feelings to Delaware county; I do not want to punish Delaware county; but I do not wish to punish the rest of the State. This proposition will not end with Delaware county, but will spread itself all over the State. I suppose the county that I have the fortune to reside in under this proposition will be entitled to a separate Senator whenever Washington and Fayette counties each shall be entitled to a separate Senator. There is no limitation, no minimum. If Delaware county had but ten thousand, under this amendment she would be entitled to a Senator. A proposition so shocking it seems to me the Convention, if they will pause for one moment, cannot adopt. I cannot give it my support although it might some day give Greene county a Senator. We had better just say in plain words that we intend to deal with Delaware county differently from any other county of the State, and give Delaware county a Senator. This would be bold and manly, but as it is proposed to be done by the amendment of the gentleman from Delaware (Mr. Broomall) it is delusion.

Mr. LILLY. I move to amend by inserting after "less than four-fifths" the words "and exceeding one-half."

Mr. W. H. SMITH. I hope this question will now be settled, and that the imaginary wrongs of Delaware will trouble us no more forever. The committee did its best, looked carefully over the State and examined every boundary, to

see how they could make this apportionment report. If they succeed in the re-opening of this subject it will give us interminable trouble. Still, if we had a hundred years before us or something less, we might go into it; but I think it is a duty we owe to the committee, who has given care and thought to this business, not to re-open their proceedings. There is nothing unusual in this attachment of Delaware county to portions of Philadelphia. There is certainly nothing dissimilar or uncongenial in politics, and in most cases where attachments of counties or parts of counties to others are made it is done for the plain purpose of overwhelming a certain majority.

This is not the case here. Indiana was attached to Westmoreland for that purpose and there are many other counties and districts in the same situation; but that does not hold here. The people are congenial in politics and fully sympathize with each other. There is nobody to make them afraid. This connection was not made with any view to disfranchise or overwhelm any particular section.

The House had adhered to this proposition with great constancy. The gentleman from Delaware, when he made his attack upon this provision some days ago had full swing. He arose and declared that he *would* have this altered, with all the energy that characterizes his utterances. He said ways could be contrived to do it and he would do it. Now, I do not think that because he wants it done and he alone wants it done that that is good reason for changing the deliberate judgment of the Convention. During that day he brought up proposition after proposition which, if members will look at their Journals, they will find were voted down fifty-three to twenty, and seventy to twelve sometimes. He introduced amendment after amendment to alter or expunge this portion of the report. I think that ought to satisfy him and everybody else that it is not right, that the judgment of the Convention deliberately is against it, and that we cannot, ought not and should not yield to his pertinacity. I do not think that the deliberate judgment and purpose of this Convention should be turned aside because one or two members choose to be pertinacious, even audacious, and press a certain thing that will disarrange and confuse the whole system adopted by the Convention. I hope this

proposition will be voted down and that we shall hear no more of it

Mr. D. N. WHITE. Mr. Chairman: What influenced the committee more than all other things was the necessity of providing a flexible rule which would work for other counties as well as Delaware. In future censuses it may be that other counties will be placed in the same position that Delaware now is, surrounded by counties every one of which is entitled to a Senator on account of its population. In order to provide for cases of this kind we have recommended the adoption of a flexible rule which will suit any county brought under similar circumstances. Very probably by the next census Lebanon will be in that precise position, and it is important that we should have in the fundamental law a rule so flexible that it will work at all times. We had not in view Delaware alone in this matter, and we provide that where a county is surrounded by other counties, all of which are entitled to separate representation in the Senate, that county may have a Senator on less than the four-fifths of a ratio. That is the whole question before the committee.

Mr. BROOMALL. Mr. Chairman: It is not I that wants Delaware treated differently from the other counties of the State. It is the sixteenth section of the legislative article that wants to make special legislation as to Delaware. I want a provision applicable to all counties that will get rid of the present difficulty of Delaware and the future difficulty of possibly other counties. At present the difficulty exists as to Delaware only, but before many years it may extend to Lebanon, and it may extend to others. What I desire is a general provision that will not deprive a county of representation merely because it is so located that it is surrounded by counties that it cannot by constitutional provision be united with. This proposition provides for the present difficulty and the possible future ones, and with this alteration the sixteenth section is entirely in accord with my notions of what it ought to be. I never saw any difficulty but the possible contingency that some counties might in the future be unprovided for if my county was provided for as it now is by name. Hence the committee's present proposition which makes a general rule on this subject is very greatly better.

The gentleman from Allegheny (Mr. W. H. Smith) talks about what I said the

other day, that I would have this altered. I think I said, I would if I could, and if I did not, I ought to have said so; but no matter how badly I behave, the gentleman from Allegheny has taken an oath to do justice to my constituents, and I rather think his oath will govern him. I know it will. All I ask in this case is for gentlemen to ask themselves how they would like to be provided for as the sixteenth section provides for me. Let us do unto others as we would have others do unto us. The only thing talked about in my county to-day with respect to the Convention is just this subject, and it is getting up a feeling of hostility there that has already done damage, and every day's delay will increase that hostility and do still more damage to us. I want my constituents to be looking for the good in the Constitution, instead of hunting out the bad points in order to get rid of what they consider, no matter whether with reason or not, an obnoxious provision and what every man here would consider obnoxious if applied to his county.

I have no objection to the citizens of Philadelphia. There are as good people in Philadelphia as anywhere in the world, but the trouble is that the best citizens of Philadelphia are good for nothing in politics but to sit in their parlors and complain, leaving the politics in the hands of a worse class of citizens, at least to a considerable extent. In Delaware county the practice is entirely different. No man there thinks himself justified in staying away from the primary elections, and at the late primary election of the Republican party there, there were nearly as many votes cast as were cast for Republican candidates at the election. I tell you, sir, we are all politicians in Delaware county, and the only safety of the country is in keeping up that condition of things. The management of public affairs in Philadelphia is in the hands of politicians not as good as they ought to be, because the men who might make them better if they would, choose to sit back and complain. Do not let us allow that influence to spread any further than it has already. All I ask is, on this question let every man here do as he would be done by.

Mr. CURTIN. I sincerely trust that the section as now modified will prevail. It is not that the delegate from Delaware is persistent in his purpose that we should change that feature of the apportionment of the Senate. The section does not read

well as it stands now upon our records. It is an invidious distinction; it is a discrimination; it is a singling out of one county of this State, and making the people of Delaware county an exception to a general rule which in itself is right—right because it received the approbation of this Convention. It is not the delegate from Delaware that we are dealing with; it is the people of Delaware county; and there is no reason why we should array the people of Delaware county against our work because the delegate from that county is persistent in his purpose. As was said very properly by the delegate from Allegheny, (Mr. D. N. White,) the section now introduced is general in its operation; it is elastic; it meets coming events and the increase of population, and I trust we shall dispose of this question by adopting it.

Mr. W. H. SMITH. I thank the gentleman from Delaware for reminding me that I have taken an oath as a member of this body. I have never ceased to remember it, and I have always sincerely felt the responsibility of that oath; but I have never undertaken to hector and bully people and say "I will have this whether you want it or not." I have never so insulted this body, and I never will.

I will say further that if I had any doubt as to the correctness of my construction of my duty here, I would be sustained by the vote of this Convention, six or eight times given, resisting the pertinacious appeals of the gentleman from Delaware.

Mr. FUNCK. Mr. Chairman: The county of Lebanon, which I have the honor in part to represent, is peculiarly situated in reference to the apportionment for senatorial representation. We are so situated that we may be deprived altogether of representation in the Senate, and I suppose that is not the desire of any member of this body. Let us look for one moment at the position of that county. Berks county has a population of one hundred and six thousand seven hundred and one, under the census of 1870; Lancaster county has a population of one hundred and twenty-one thousand three hundred and forty; Schuylkill county has a population of one hundred and sixteen thousand four hundred and twenty-eight; Dauphin county has a population of sixty thousand seven hundred and forty. In less than ten years Dauphin county will have a population

large enough to entitle it to separate senatorial representation. Then the county of Lebanon will be surrounded by counties each of which will be entitled to a separate Senator, and there will be no territory to which she can be attached; consequently, under the provisions of the amended Constitution as adopted by this body, Lebanon county would be entirely disfranchised. It is certainly not the desire of any member of this House that such may be the case. Lebanon county has a population of thirty-four thousand and ninety-six, which is a little less than half a ratio. If the amendment of the gentleman from Carbon is adopted, Lebanon county will be entitled to senatorial representation as soon as Dauphin county will be entitled to it. This certainly will not be asking too much under the circumstances. I would not ask it for Lebanon county if it were so situated that it could be connected with any adjoining territory, but I do insist that rather than the people of that section should be entirely disfranchised, this right should be extended to them.

Mr. HOWARD. When this question was before this body on a former occasion, I voted to retain the county of Delaware in the position she now occupies in the article on the Legislature. I did this because I thought it was right. I thought it was better to support the report of the special committee to whom the subject had been referred. I am now, however, satisfied that any apportionment we can make will meet with such opposition, and it will tend to a greater or less extent to injure the Constitution. I am also satisfied that without that amendment now proposed from the Committee on Legislature and the amendment of the gentleman from Carbon, we shall do great injustice to Lebanon in the future, because in ten years undoubtedly the county of Dauphin will be entitled to separate representation; Lebanon will be walled in, surrounded by counties entitled to separate representation, and will herself be entitled to no representation at all. She has a population of thirty-four thousand, and by the next census she would be cut off from the other counties and get no representation unless under the amendment of the gentleman from Carbon. I think the best thing the Convention can do is to adopt first the amendment of the delegate from Carbon, and then adopt the proposition of the delegate from Delaware.

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

The amendment was agreed to.

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

Mr. BUCKALEW. I have felt inclined to listen to the remarks made about the possible position of Lebanon county, but not at all inclined, for one, to reconsider what the Convention did as to Delaware. In fact the complaint made here to the Convention on behalf of Delaware county is, if I may be permitted the expression, preposterous, absolutely preposterous.

In the first place, as to Lebanon county at present, by the force of the article as we have passed it, Lebanon will remain connected with Dauphin as to the next apportionment. It may be possible, but it is not at all certain, that Dauphin county at some future time may be entitled of right to a Senator by herself, in which case there will be no proper provision for the county of Lebanon. I agree to that, but it does not follow that this amendment now proposed will better that a bit. Lebanon county is now below one-half of a senatorial ratio. It is mostly agricultural, although there are a few populous places in it on the line of railroads, and I cannot say with any certainty that she will have half a ratio in 1881, or at any future time. She may remain permanently as she is now, in which case this amendment will have no effect at all on her. It is not, therefore, a correction, if that is the term to be applied as to Lebanon county. It is drawn and proposed simply to secure to Delaware county a Senator by herself for all future time upon a population of about half a senatorial ratio, whereas, right adjoining her or near her, is the case of Berks county, which under the section will have a ratio and about the same population as Delaware, which is left with one Senator. That is, you propose to go back and say that thirty-nine thousand inhabitants in Delaware shall have a Senator by herself substantially, while thirty-seven thousand, almost the same number, in the county close by shall not.

Well, is this equality? The same illustration or similar illustrations may be made as to a great many other cases in the State. Retaining county boundaries you must disregard numbers to some extent; but the point that is peculiarly remarkable in the case of Delaware is this, that she will be fully represented for all

her population and not cut off as Berks is. If Delaware were to-morrow connected with the Twenty-seventh ward of the city of Philadelphia and a district made up in that way, each part would have about a little less than forty thousand, making up together just a ratio. Well, Delaware county naturally would have a Senator half the time, and the part of Philadelphia connected with her would have the Senator the other half. That is all. Delaware would be fully represented and there is no injustice done her. If the gentleman from Delaware wants to secure the just representation of his county all he has to do is to ask (and I presume we will do that by common consent) a provision that the Senator shall be elected in alternate terms from Delaware county in the first instance and from Philadelphia in the next. Provisions of that kind have been put into many of our State Constitutions. The gentleman does not want that done because he does not need it; because Delaware would at all events, under the operation of natural causes, have her Senator one-half the time and have full representation for all her population. If she shall increase in population largely hereafter and is necessarily connected with smaller portions of Philadelphia, she will have the Senator say two-thirds of the time. Now, where is the grievance or hardship? It does not exist. This is simply a demand by a population consisting of half a ratio to have a whole Senator and have it forever and to carry it here by strong language and by persistence, and to have it too when other counties will absolutely lose representation equal or nearly equal to the whole population of that county. I was justified, therefore, in saying that the proposition is preposterous.

Mr. Chairman, I am agreed that this matter shall be somewhat further considered, shall be now laid over temporarily. I am agreed to consider, with the gentleman from Lebanon, a possible future difficulty in the case of his county not provided for in this amendment necessarily. It is, however, a mere possibility in the case of that county; but as to the case of Delaware county, which was thought of and considered by the committee, I repeat that there is no reason in the world to change the arrangement which the former committee and the Convention made; and if you do change it and give her representation separately, you will find that other counties will complain more bit-

terly than she does of the general arrangement made.

Mr. FUNCK. Mr. Chairman: I think the delegate from Columbia has fallen into an error in reference to the probability of Lebanon county obtaining a population large enough to constitute one half the ratio of senatorial representation. If you take the population of the State of Pennsylvania as ascertained by the census of 1870, you will find it numbers 3,521,791. Now, take from that total the population of the city of Philadelphia, numbering 674,022, and assign to that city her proportion of Senators to which her population entitles her under the rule fixed by the provision of the Constitution and you will leave the aggregate of population for the apportionment of the residue of the State 2,847,769, which, divided by forty-two would make the ratio of senatorial representation a fraction over 67,000. If this is the correct way of getting at it, and I think it is, Lebanon county to-day has one half the ratio required for separate senatorial representation. Is it the intention of the distinguished delegate from Columbia that Lebanon county shall be forever disfranchised of her right to senatorial representation? If so, it is well that this Convention should know it. All that I desire is that the question shall be fairly brought to the attention of delegates on this floor, and if they mean to perpetrate such injustice as this upon the county of Lebanon, I desire that they should vote intelligently upon the question, that they should know exactly the position in which we are placed if this amendment is not adopted. I insist that we shall have the same even-handed justice which we have always conceded to every other county in the State.

Mr. DARLINGTON. Mr. Chairman: I do sincerely hope that this amendment may prevail. There is really no sound objection that can be raised against it. The only objection that I have heard raised is that Delaware county, and possibly Lebanon, and perhaps some others in the future, may, under it, be entitled to a Senator when they may not have the whole of a ratio. That may happen sometimes, and it results from the very nature of the constitution of the government. While we are endeavoring to give tolerably equal representation to all parts of the State, it is known by everybody here to be utterly impracticable to have that representation exactly equal. You cannot have it exactly equal. One or

will have an excess of thirty thousand or forty thousand and another will barely have the requisite amount, and thus one Senator may actually represent nearly twice the number of people that another Senator represents. This results from the very division of the State into counties; but still we have substantially equal representation over all the State. No county ought to be disfranchised; no county in this Commonwealth should be left without a representation in the Senate.

Now what will be the effect of not adopting this proposition? It will be at present to leave one county, to be sure, with a representation connected with another or taken from another county to make it up; and another county, Lebanon, in a few years, just as certainly as the days roll around, will be found surrounded by Lancaster, Berks, Schuylkill and Dauphin, every one of them entitled to a Senator by itself. Some of these will have a larger excess of population than others, but still the county will be represented. Now, what is the great difficulty in the way of allowing a separate Senator to every county so circumstanced? The answer is that it must be taken off somewhere else. So it may; but it is far better that Chester county should have ten thousand or twenty thousand of her population unrepresented; it is far better that Lancaster and Berks and Schuylkill should not have such representation as their population would entitle them to; they can afford to let some of it go. If each county gets one Senator it can afford to let these fractions go, so as to allow Senators to counties which have not enough population of themselves. Equal and exact justice, as far as possible, is what this Convention ought to do. It ought to give to every county that has a reasonable population a Senator, and give to those counties which can be annexed to others a representation with those others, but not annex a large city to a county, where you can possibly avoid it.

There will be no difficulty or trouble in the Legislature carrying out this provision. Those counties which are by their circumstances so placed that they cannot be annexed to another, and which have half a ratio and not more than four-fifths, will be entitled to a separate Senator, and then your Senate will be properly constituted and no portion of the State will go unrepresented. I do sincerely hope that this act of justice, for it is nothing less,

will be conceded to those counties which are and will be disfranchised unless this be done.

Mr. HARRY WHITE. Mr. Chairman: When the proposition was first presented by the delegate from Delaware, I was not inclined to favor it, and I should not favor it now if a more acceptable proposition could be adopted which would relieve us of the embarrassment which stares us in the face, as a practical question under the article on the Legislature as it now stands. The question is how can we be relieved of that embarrassment. I am not in favor of special legislation; but exceptional cases require exceptional remedies. If I had it in my power, I would allow Chester and Delaware to be made one senatorial district, electing two Senators. That would be my preference, but practically it comes to the same thing if you adopt the amendment which is proposed, and which has received, as I understand, the unanimous sanction of the Committee on the Legislature. The practical effect of that will be to make Delaware county, during the existence of this provision of the Constitution, a separate senatorial district. Suppose we do otherwise; suppose we attach Delaware to Montgomery, if you please, and provide for two Senators there, Montgomery will have one Senator and Delaware another. Suppose we add Delaware to Chester, then Chester would have one Senator and Delaware the other. It is practically the same thing.

The only question in my mind is the situation of the county represented by the delegate from Lebanon. Lebanon, I find, is surrounded all about by counties which are in excess of four-fifths of the ratio, and those counties, when the next census is taken, as sure as the sun rises in the morning, will have to be made separate senatorial districts. It seems to me that we should look at this matter, consider it, and provide for the senatorial apportionment of the State in such manner that we shall not have a Pandora's box of evils to be opened upon us hereafter. I think we should consider these points in endeavoring to relieve Delaware from her present dilemma. After the next census the embarrassment that we have in regard to Delaware will be experienced with Lebanon county. I am willing, however, to accept this as it now stands. "Sufficient unto the day is the evil thereof." I hope this amendment offered by the delegate from Delaware will be adopted, and

it will relieve us of our present embarrassment at least.

Mr. BLACK. Mr. Chairman: I have every desire in the world to accommodate where it can be done without a sacrifice of principles. Now, so far as Delaware county is concerned, the section as we have already passed it through all the several forms it required to be passed, leaves that county just as other counties, according to her population. She will be entitled to a full representation; and on that ground there is no reason why there should be an exception made in favor of Delaware or any other single county. We have decided that where a county has four-fifths of the ratio she shall be entitled to a separate representation in the Senate. Now, as I understand the amendment, it is proposed to go further and to say that wherever a county has half a ratio and adjoins a county having four-fifths of a ratio, that county shall have a separate representation. If that be the true meaning of this amendment, it surely is not right. Under the section as adopted by this body, Westmoreland county will be entitled to a Senator because she has four-fifths of a ratio. If you adopt this amendment, then you go on and say that all the adjoining counties having half a ratio shall each have a Senator. Look where that will run us. That would give Cambria a Senator, Indiana a Senator, and Fayette a Senator. I believe that these are all the adjoining counties. I repeat in the language of my friend from Indiana it cannot be done. It is not right; it is not honest; it does not give the counties a fair representation at all, as based upon population.

Mr. HARRY WHITE. I do not understand the delegate.

Mr. BLACK. I say if this amendment prevails, Westmoreland county being entitled to a Senator for four-fifths of a ratio, all the adjoining counties having one-half a ratio will be entitled each to a Senator—Indiana, Fayette and Cambria. That would not be right but that is the effect of this amendment according to my understanding of it. That seems to me to be the effect of this amendment. I cannot vote for it because it would be unfair.

Mr. HARRY WHITE. The delegate will allow me to explain. I know he misapprehends me. He misunderstands the purport of the amendment. The section provides that no county shall be allowed

a separate representation unless it has four-fifths of a ratio.

Mr. BLACK. That is right.

Mr. HARRY WHITE. And that no county shall be divided.

Mr. BLACK. We have adopted that.

Mr. HARRY WHITE. Now the amendment in question comes in that no county shall be allowed a separate representation without four-fifths of a ratio, except where it is adjoining counties that have one or more ratios.

Mr. BLACK. No; that would not be the effect of this, in my opinion, upon a hasty examination.

Mr. HARRY WHITE. That would be the effect.

Mr. BLACK. I cannot support it, because we have already adopted, I think, a fair system of apportionment, and I do not think this proposition would be any improvement at all. I repeat that Indiana and Delaware are in no worse condition than other counties, and they should not have any advantages over any other counties. I cannot vote for the amendment, although I am disposed to do all that I can for my friend from Delaware.

Mr. J. M. WETHERILL. If it is in order I desire to offer the following amendment, to come in at the end of the section:

"And no county entitled to two Senators, or less, shall be divided in the formation of districts."

Mr. BROOMALL. I rise to a question of order. That proposition being upon a distinct matter, it ought, by the ruling of the House yesterday, to be referred to the committee and acted upon by them and reported in the same way that this has been.

The CHAIRMAN. It is in order to amend the section as reported to the House.

Mr. J. M. WETHERILL. I only desire to say a word on this subject. I offer this amendment for the same reason that the gentleman from Delaware offers his amendment, namely: That this disposition of the senatorial districts would be more agreeable to my constituents and would command their support for the Constitution in a stronger degree than the Constitution as it stands at present.

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

Mr. D. N. WHITE. I rise to a question of order. My point of order is, that it is not

in order to make any amendment to this section except the amendment reported by the committee. That was the decision of the House yesterday.

The CHAIRMAN. The amendment is in order. The committee of the whole can amend the section as reported.

The CLERK. There is a clause in the section now, in manuscript, as follows: "but no county shall be divided unless entitled to two or more Senators."

Mr. HARRY WHITE. Then I raise the question of order that the amendment is not in order, because the same thing, in substance, is already in the section.

The CHAIRMAN. It is in order. The question is on the amendment of the gentleman from Schuylkill (Mr. J. M. Wetherill.)

The amendment was rejected.

The CHAIRMAN. The question is now on the section as amended by the delegate from Carbon.

Mr. BUCKALEW. Let it be read.

The CLERK. The section as proposed to be amended will read:

"But no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half a ratio; and no city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators.

Mr. BUCKALEW. This is a very cunning amendment. Lebanon cannot be joined to Dauphin to make a senatorial district.

Mr. BROOMALL. Why not?

Mr. BUCKALEW. Because assuming the calculation of the ratio that was submitted here she will have half a ratio, and then she will be entitled to a separate representative when all the adjoining counties are entitled to separate representation. That would give Lebanon county, with thirty-four thousand inhabitants, a full Senator, and then Delaware county, with thirty-nine thousand inhabitants, another full Senator; and as it happens the fractions runs nicely in Lancaster; Lancaster gets her two Senators, and then Berks, with a fraction exceeding the whole population of Lebanon, loses that and is left with one. So the gentleman from Indiana has studied this subject and has made a very adroit amendment to execute as far as he is concerned the universal law of his being.

The committee have thrown this amendment in here in the morning session, which we are considering without having it printed or studying its effect: and a sufficient answer to the argument which I submitted before seems to be that I want to prevent the people of Lebanon county from ever having a Senator at all. Now, Mr. Chairman, I submit that the best thing we can do is for the committee to rise, order this amendment printed, go on with the regular business in which we are engaged, and take this subject up again when we shall be able to understand what we are doing. I move that the committee rise.

The CHAIRMAN. It is moved that the committee rise, report progress and ask leave to sit again.

The motion was agreed to, there being on a division, ayes forty-four, noes forty.

The committee accordingly rose, and the President having resumed the chair, the Chairman (Mr. Lamberton) reported that the committee of the whole had had under consideration the section referred to them and had instructed him to report progress and ask leave to sit again.

The PRESIDENT. Shall the committee have leave to sit again?

Mr. BROOMALL. I desire to ask a question before that vote is put. What will be the effect of refusing to allow the committee to sit again?

The PRESIDENT. The section will then come up on second reading.

Mr. BROOMALL. Then I hope the committee will not have leave to sit again. We can consider this matter on second reading now as well as at any other time.

The CLERK. Then the amendment of Mr. Lilly falls.

The PRESIDENT. The question is on giving the committee leave to sit again.

The question being put, leave was refused, the ayes being twenty-five, less than a majority of a quorum.

Mr. BUCKALEW. Now, Mr. President, I move that the further consideration of this subject be postponed for the present and that the section be printed.

Mr. BROOMALL. It is printed and on every member's table. It was circulated yesterday morning. There has only been a verbal change made.

Mr. BUCKALEW. I should like to see the verbal change. It has not been printed as the report of the committee. The gentleman says he had it published. I have not seen it.

Mr. BROOMALL. The proposition was printed by order of the House at my request, and the committee have made merely a verbal change which does not alter the substance, but only making it clearer and better.

Mr. HARRY WHITE. I move to make it indefinite, so that I may say a word.

The PRESIDENT. The Chair did not hear what the delegate from Columbia moved.

Mr. BUCKALEW. My motion was that the subject lie over for the present and that this amendment be printed.

The PRESIDENT. As yet there has been no motion to proceed to the second reading of the article.

Mr. LILLY. I move to proceed to the second reading of the article.

The PRESIDENT. Now, the motion of the gentleman from Columbia might come up.

Mr. BUCKALEW. I move that the subject be postponed for the present and that the amendment be printed.

The PRESIDENT. That motion is before the Convention.

Mr. HARRY WHITE. I move to amend the motion so as to make it an indefinite postponement.

The PRESIDENT. That motion is before the Convention.

Mr. HARRY WHITE. Now, Mr. President, I hope we shall not postpone this matter. We have but two days left of our session.

Mr. DARLINGTON. I rise to a point of order. My point of order is that when this matter comes up on second reading, the first question is, will the House proceed to the second reading, and until they agree to proceed to the second reading no motion to postpone is in order.

Mr. T. H. B. PATTERSON. We have agreed to that.

Mr. DARLINGTON. No, we have not.

The PRESIDENT. The motion to proceed to the second reading is before the Convention.

Mr. HARRY WHITE. I hope and trust the Convention will not by a majority vote postpone the consideration of this question. We have had interminable difficulties on this subject of apportionment. We understand this matter now, after the discussion we have had, just as well as we shall be able to do hereafter. The identical proposition made by the delegate from Delaware was printed yesterday and laid on our desks, and I venture to say that every delegate if he

looks among his papers will find it there. I hope we shall refuse to postpone, but let us dispose of the question so that we may get this rubbish out of the way.

Mr. KAINE. I hope the motion to postpone and print will prevail. The gentleman from Indiana may speak for himself, but he cannot speak for me. I have not seen the proposition that is now before the Convention at all, either in print or in manuscript, and as I understand the proposition that was printed yesterday morning is not the one now before the Convention. I understand that the subject now before the Convention is a report made by the gentleman from Allegheny (Mr. D. N. White) this morning and in manuscript. I went to the desk and tried to get to see what it was, and I was unable to do it, because the gentleman who reported it had it in his hand and was reading it. I want to vote understandingly on this subject. I want to see what it is before I vote upon it. I have not been able from the entire discussion here this morning to understand what the proposition is. I therefore hope the motion will prevail.

The PRESIDENT. The question is on the motion to postpone indefinitely.

Mr. HARRY WHITE. I withdraw that motion.

The PRESIDENT. Then the question is on the motion to postpone and print.

Mr. HARRY WHITE. On that motion I call for the yeas and nays.

Mr. BROOMALL. I hope the call will be withdrawn, and let us have a division to save time.

Mr. WORRELL. I insist on the call of the yeas and nays.

The question being taken by yeas and nays, resulted as follow :

YEAS.

Messrs. Achenbach, Andrews, Bailey, (Huntingdon,) Barclay, Barr, Black, Buckalew, Campbell, Clark, Corbett, Cronmiller, Curtin, Cuyler, Dallas, Dunning, Ellis, Gilpin, Guthrie, Hall, Hay, Hunsicker, Kaine, Lamberton, Long, M'Camant, M'Clean, M'Murray, Minor, Mott, Palmer, G. W., Patterson, T. H. B., Purman, Reed, Andrew, Ross, Smith, H. G., Smith, Wm. H., Wetherill, J. M., Wherry, Woodward, Worrell and Wright—41.

NAYS.

Messrs. Ainey, Alricks, Armstrong, Baily, (Perry,) Baker, Bannan, Bardsley,

Beebe, Biddle, Bowman, Boyd, Brodhead, Broomall, Brown, Calvin, Carey, Carter, Church, Cochran, Collins, Curry, Darlington, Davis, De France, Edwards, Elliott, Ewing, Funck, Gibson, Hemp-hill, Horton, Howard, Landis, Lawrence, Lilly, MacConnell, M'Culloch, M'Michael, Mann, Mantor, Newlin, Niles, Palmer, H. W., Patterson, D. W., Patton, Porter, Purviance, John N., Purviance, Samuel A., Reynolds, Rooke, Runk, Russell, Smith, Henry W., Stanton, Struthers, Temple, Van Reed, White, David N., White, Harry, J. W. F. and Walker, *President*—61.

So the motion was not agreed to.

ABSENT.—Messrs. Addicks, Baer, Bartholomew, Bigler, Bullitt, Cassidy, Corson, Craig, Dodd, Fell, Finney, Fulton, Green, Hanna, Harvey, Hazzard, Heverin, Knight, Lear, Littleton, MacVeagh, Metzger, Mitchell, Parsons, Pughe, Read, John R., Sharpe, Simpson, Stewart, Turrell and Wetherill, Jno. Price—31.

Mr. LILLY. I now renew my amendment offered in committee of the whole. It is to add to the amendment proposed by the Committee on the Legislature the words, "and exceeding one-half."

That is, no county shall have a Senator unless it has one-half of a ratio.

Mr. PURMAN. Let the Clerk read the sixteenth section as it stands with the amendment.

The CLERK read as follows:

"But no county shall form a separate district unless it shall contain four-fifths of a ratio except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators."

The PRESIDENT. The question is on the motion of the delegate from Carbon.

Mr. BUCKALEW. I move to amend the amendment by striking out "one-half" and inserting "three-fifths."

Mr. LILLY. That is to strike at Lebanon, and I hope it will not prevail.

Mr. BROOMALL. And at Delaware also.

The amendment to the amendment was rejected.

The PRESIDENT. The question recurs on the amendment of the delegate from Carbon.

The amendment was agreed to.

The PRESIDENT. The question is on the report of the Committee on the Legislature.

Mr. BUCKALEW. I have changed my opinion upon one subject. I supposed the question of what constituted a senatorial ratio was sufficiently certain, but this morning we are told that we are to have a greatly different ciphering out in a manner which I did not suppose would ever be proposed; that you are to take the population of Philadelphia out of the general population of the State, and then make up the senatorial ratio by dividing the population of the remainder of the State by forty-two or by fifty, I do not know which.

Mr. DARLINGTON. Forty-two.

Mr. BUCKALEW. Well, there are persons who think, and I think myself, that the senatorial ratio would be formed by dividing the whole population of the State by the whole number of Senators.

Mr. HARRY WHITE. That is right.

Mr. BUCKALEW. It will make a very material difference in the workings of this section which of these three rules shall be adopted. If in this Convention we are not agreed about it, there will be difficulty out of doors and in the Legislature. Therefore I have been converted upon a single point. I think it would be best if we are to manipulate this section again, to define once for all what a senatorial ratio is to be, or how it is to be made when the apportionment comes to be formed. Otherwise one Legislature may adopt one rule and another another, according to the particular interests and passions of the hour. I did not suppose there would be any trouble about this ratio. The senatorial ratio would be one-fiftieth part of the entire population of the State, but I am admonished to say that it is best to make everything completely certain.

If I had time, I would draw a modification of this section so as to fix the senatorial ratio. But the gentleman from Delaware (Mr. Broomall) and the gentleman from Indiana (Mr. Harry White) thought proper to precipitate this subject upon us this morning and to insist that we should go on and finish it and have the thing screwed down; and knowing exactly how it is intended that this amendment shall work, I was justified in entering my protest against this undue and unseemly haste to undo what was done upon due deliberation. But as in the next section, relating to the House, we have specifically

determine what the ratio for that branch of the Legislature shall be, we ought in this section to fix the rule by which the senatorial ratio shall be ascertained. You divided the whole population of the State by the number two hundred. Now, sir, if you leave this question of senatorial ratio open to be debated as it has been here this morning, there is no end to the difficulties that will hereafter arise in making apportionments. Every member concerned in the making of an apportionment will adopt a basis for fixing a ratio that will suit his own district or that will suit the interests of the party with which he is associated. The map will be looked over and the calculations will be made, and then the ratio, as far as each member is concerned, will be fixed to suit the facts. I want to make that certain, but I have not time now to write an amendment. I renew this motion that this subject be postponed for the present.

Mr. BROOMALL. I desire to ask the gentleman from Columbia whether I did not point out this difficulty to him when I was fighting this section, and whether he did not explain it to me to my entire satisfaction, so that I had no further objection of that kind to the section. His explanation is sound, it is good, and every member will see that it is so. The ratio of population is fixed inevitably by fixing the number of Senators and then providing that Philadelphia shall only have one-sixth. The ratio of population must be, in order to do that, a given number to be ascertained always by calculation. There is no trouble about it. The plan of the gentleman from Indiana may not make it quite that, but it will manifestly come very near it. It will differ but a few hundreds from the true ratio, so there is no such difficulty. The gentleman convinced me, and if he would apply the same argument to the House that he did to me when I raised the difficulty, he would convince the House equally well, that fixing the number of Senators and requiring the territory to be as near equal in population as will answer the purposes of the rest of the article, and then cutting Philadelphia down to one-sixth makes the ratio a given number that can be ascertained by any school boy. There is no occasion to postpone this matter. Does the gentleman want to open up the whole section? Does he want us to stay here a month?

The PRESIDENT. There is no such motion that the Chair heard.

Mr. BROOMALL. He is asking a delay to understand what he certainly does understand, complaining that he does not like the proposition. Now, sir, when I was opposing that section I found all the defects that were in it; I calculated it and worked it out; and I say now, when the gentleman from Columbia had explained the ratio business, I found no trouble in it, but the present case of Delaware and the future case of Lebanon. I trust that there will be no delay on the subject, but that the House will pass the section.

Mr. FUNCK. Mr. Chairman: This subject is of such great magnitude to my constituents that I beg the attention of the Convention once more to a few words upon it. The proposition that is before the House is embraced in a very small compass and is perfectly intelligible. I will read it to the Convention and then call their attention to that part of it which bears directly upon the county which I represent:

"But no county shall form a separate district unless it shall contain four-fifths of a ratio."

Now comes the part which affects Lebanon county:

"Except when the adjoining counties are entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio."

Now, as I understand, there is not a single county in the State that is situated like Lebanon county.

If this amendment be adopted, what will be the position of Lebanon county? If Dauphin county gets a separate senatorial representation, as she undoubtedly will be entitled to before the next census is taken, then and in that event Lebanon county will be completely isolated. Schuylkill, Lancaster, Dauphin and Berks, the four counties which surround Lebanon, will each have a Senator. In that case Lebanon county cannot be attached to any other county because your Constitution provides that a senatorial district must be made up of contiguous territory. Consequently, in that event, Lebanon county would be entirely disfranchised until she had a population large enough to make up a ratio.

This proposition does not say that Lebanon county shall absolutely be entitled to a Senator if she has one-half of a ratio, but that the Legislature may give her a Senator in a certain contingency. It only

removes the constitutional prohibition, and leaves the matter open for the Legislature to arrange it in such a way as to do justice to the people of that county. Now, I ask the Convention not to do the county of Lebanon the injustice of erecting, by constitutional provision, a barrier which the Legislature cannot surmount, and thus forever, or until the Constitution is again amended, disfranchise the people of that county. It will be a very great injustice and I beg the Convention not to do it.

Mr. KAINE. As I said before, I do not understand exactly the matter now under consideration. I supposed that we had finally passed the article on the Legislature and disposed of the question of the apportionment of Senators. This Convention so decided yesterday morning, when a resolution was offered by the gentleman from Delaware to authorize the Committee on Revision and Adjustment to make this same amendment. That was voted down by the Convention and they decided by an overwhelming vote that such a thing as that could not be done. The gentleman then changed his proposition and had it referred to the Committee on the Legislature. That committee brought in a report this morning and it is that report which we are now considering. If that report be adopted, I want to know what will be the result? I hold in my hand the article as it finally passed this Convention. The sixteenth section provides that "the State shall be divided into fifty senatorial districts, of compact and contiguous territory, as nearly equal in population as may be, and each district shall be entitled to elect one Senator; each county containing one or more ratios of population shall be entitled to one Senator for each ratio and to an additional Senator for a surplus of population exceeding three-fifths of a ratio; but no county shall be divided unless entitled to two Senators. The county of Delaware may be united to the adjoining wards of Philadelphia to form a district."

Now, I understand that the proposition is to strike that out and insert what is at present before the Convention and under consideration. If that was impossible yesterday, I should like to know how it can be done to-day or any other day under the rules of the Convention. If it was not in order yesterday, it is not in order to-day. This Convention of course has a right to take up a section and pass it through committee of the whole and

through second and third reading, but I should like to know how it can be got into this section of the article on the Legislature, as it has already passed. I should like some gentleman to inform the Convention on that subject. If it be utterly impossible to do this thing except by the unanimous consent of this Convention, then I see no use in occupying the time of the Convention in considering the proposition.

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

Mr. BUCKALEW. I call for the yeas and nays.

Mr. KAINE. I second the call.

Mr. FUNCK. Let it be read. Gentlemen do not understand it.

The CLERK read as follows:

"But no county shall form a separate district unless it shall contain four-fifths of a ratio except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; but no city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators."

The question being taken by yeas and nays, resulted as follows:

Y E A S.

Messrs. Ainey, Alricks, Armstrong, Bally, (Perry,) Baker, Bannan, Beebe, Biddle, Bowman, Boyd, Broomall, Calvin, Carey, Cochran, Collins, Curry, Cuyler, Darlington, Davis, De France, Edwards, Ewing, Funck, Gibson, Gilpin, Green, Hanna, Hazzard, Hemphill, Horton, Howard, Hunsicker, Lamberton, Landis, Lawrence, Lilly, M'Michael, Mann, Mantor, Minor, Newlin, Niles, Palmer, H. W. Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purviance, Samuel A., Reynolds, Rooke, Runk, Russell, Stanton, Struthers, Van Reed, White, David N., White, Harry White, J. W. F. and Walker, *President*—59.

N A Y S.

Messrs. Achenbach, Andrews, Bailey, (Huntingdon,) Bardsley, Barr, Black, Brown, Buckalew, Clark, Corbett, Cronmiller, Dallas, Dodd, Dunning, Elliott, Ellis, Guthrie, Hall, Hay, Kaine, Knight, Long, MacConnell, M'Clean, M'Culloch, M'Murray, Mott, Purman, Purviance, John N., Reed, Andrew, Smith, Henry W., Smith, Wm. H., Temple, Wetherill,

J. M., Wherry, Woodward and Worrell—37.

So the report was agreed to.

ABSENT.—Messrs. Addicks, Baer, Barclay, Bartholomew, Bigler, Brodhead, Bullitt, Campbell, Carter, Cassidy, Church, Corson, Craig, Curtin, Fell, Finney, Fulton, Harvey, Heverin, Lear, Littleton, MacVeagh, M'Camant, Metzger, Mitchell, Palmer, G. W., Parsons, Pughe, Read, John R., Ross, Sharpe, Simpson, Smith, H. G., Stewart, Turrell, Wetherill, John Price and Wright—37.

Mr. BROOMALL. I move that the section be transcribed for a third reading.

Mr. HARRY WHITE. I rise to a point of order. My point of order is that it is not necessary to transcribe this proposition for a third reading. It does not require any third reading.

The PRESIDENT. The Chair cannot sustain the point of order.

Mr. HARRY WHITE. Allow me to state my point of order precisely. It is this: A proposition in the shape of a resolution to add certain words to a certain section of the article on the Legislature being proposed yesterday by the delegate from Delaware, and having been referred to the Committee on the Legislature, they reported this morning that those words should be added, and the Convention has proceeded to consider them. That is in the nature of a resolution, and when passed adds the words, and does not require any further consideration.

Mr. BROOMALL. If that is the ruling of the Chair, of course I accept it.

The PRESIDENT. The Chair cannot so rule.

Mr. BROOMALL. Then I make my motion to transcribe the section for a third reading.

The motion was agreed to.

Mr. BROOMALL. Now I move that the section be taken up on third reading.

Mr. BUCKALEW. I call for the yeas and nays on suspending the rule.

Mr. PURMAN. I second the call.

The PRESIDENT. The yeas and nays are called for on the motion to proceed to the consideration of the section on third reading.

Mr. BROOMALL. If the rule is insisted upon, and it requires a two-thirds vote to suspend it, I withdraw my motion.

Mr. MANN. There is no such rule.

Mr. BROOMALL. Is there such a rule? I do not know. Does it require a two-thirds vote?

Mr. MANN. The thirty-first rule simply requires that there shall be three readings, but it does not say when.

The PRESIDENT. The thirty-first rule will be read.

The CLERK read as follows:

"All articles of amendment proposed to the Constitution shall receive three several readings in the Convention previous to their passage, the first of which shall be in committee of the whole, and the Convention shall order the printing of the same for the use of the members as they shall think expedient."

Mr. BROOMALL. If that is all, there is nothing to prevent our proceeding to the third reading now.

Mr. BUCKALEW. It is the parliamentary law that the readings shall be on three separate days.

The PRESIDENT. The parliamentary law is certainly as the delegate states, but we are bound, I presume, by our rules. My own judgment is that under parliamentary law it would have to lie over; but if I am asked to give a construction of the rule, I shall have to give it.

Mr. BROOMALL. I should have no objection to its laying over only that we are close to the day of adjournment—the day after to-morrow. It will only make delay.

Mr. BUCKALEW. If there ever was a necessity for a rule of this kind, which we ourselves have put into the Constitution to bind future Legislatures, it is on just such an occasion as this. This amended section has been put through the committee of the whole and all the stages of second reading and ordered to be transcribed for a third reading in one session, and there is to be but one vote yet upon it, and a mistake made is fatal, unchangeable, unless somebody gets up and offers a resolution to amend this section and has that referred to a committee and reported back and we then go into committee of the whole and overhaul this subject again. We had better be sure that it is right before we let it pass third reading, so that we will not have to touch this subject again.

Besides that, I stated before, what the Convention will see the force of, that while we are upon this section a slight change ought to be made in the phraseology so as to fix what is a senatorial ratio. The gentleman from Delaware has entirely misconceived what I said on a former occasion. I submit to the Convention, in all fairness, whether gentlemen are for or

against this proposition, that ordinary parliamentary law which we all understand and have been working under requires these matters to be considered on three different days.

Mr. MANN. I have no kind of objection to this bill being postponed. What I am trying to prevent is the adoption of a rule that will tie us up on Friday next from making any amendments that may be necessary.

The PRESIDENT. If the point of order is raised under the rule, the Chair will be compelled to decide that this section can be taken up now.

Mr. BROOMALL. That is all right; then let us take it up.

Mr. BUCKALEW. I suppose the question now is on proceeding to the third reading.

The PRESIDENT. That is the question.

Mr. BUCKALEW. Certainly the rule provides that amendments shall be printed at the discretion of the Convention, and the section ought now to be ordered to be printed as it has been amended, so that it will come up fairly to-morrow morning. I move that the further consideration of this section be postponed until to-morrow morning, and that the section be printed in the meantime.

The PRESIDENT. That motion is before the Convention.

Mr. HARRY WHITE. I call for the yeas and nays.

Mr. NEWLIN. I second the call.

The yeas and nays were taken and resulted as follow :

Y E A S.

Messrs. Achenbach, Addicks, Alricks, Andrews, Armstrong, Bally, (Perry,) Bailey, (Huntingdon,) Barclay, Barr, Black, Brodhead, Brown, Buckalew, Campbell, Clark, Corbett, Cronmiller, Curry, Cuyler, Dallas, De France, Dodd, Dunning, Elliott, Ellis, Gilpin, Guthrie, Hall, Hay, Hazzard, Kaine, Landis, Long, M'Camant, M'Clean, M'Culloch, Mott, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Purman, Purviance, John N., Read, John R., Reed, Andrew, Ross, Smith, Wm. H., Temple, Wetherill, J. M., Wherry, Woodward, Worrell and Wright
52.

N A Y S.

Messrs. Baker, Bannan, Bardsley, Beebe, Biddle, Bowman, Boyd, Broomall, Calvin, Carey, Carter, Cochran, Collins, Darlington, Davis, Edwards, Ewing, Funck,

Gibson, Green, Hanna, Hemphill, Horton, Howard, Hunsicker, Lamberton, Lawrence, Lilly, Littleton, MacConnell, M'Michael, M'Murray, Mann, Mantor, Minor, Newlin, Niles, Palmer, H. W., Patton, Porter, Pughe, Purviance, Sam'l A., Reynolds, Rooks, Runk, Russell, Smith, Henry W., Stanton, Struthers, Van Reed, White, David N., White, Harry, White, J. W. F. and Walker,
President—54.

So the motion was rejected.

ABSENT.—Messrs. Ainey, Baer, Bartholomew, Bigler, Bullitt, Cassidy, Church, Corson, Craig, Curtin, Fell, Finney, Fulton, Harvey, Heverin, Knight, Lear, MacVeagh, Metzger, Mitchell, Parsons, Sharpe, Simpson, Smith, H. G., Stewart, Turrell, and Wetherill, Jno. Price—7.

The PRESIDENT. The question is on proceeding to the third reading of the section.

The motion was agreed to.

The PRESIDENT. The section will be read the third time.

The CLERK read as follows :

"But no county shall form a separate district unless it shall contain four-fifths of a ratio except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators."

Mr. BUCKALEW. I now move to go into committee of the whole for the purpose of adding the following amendment:

"Provided, That the senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty."

Mr. BROOMALL. I see no objection to that.

Mr. EWING. I rise to a question of order. I wish to know, for information, if that amendment is in order. If it is we can certainly remodel the entire section.

Mr. BROOMALL. Oh, no!

Mr. EWING. If we can, then some of us may have different amendments. My point of order is that I suppose nothing to be in order except the subject-matter of the section reported by the Committee on the Legislature, as passed through committee of the whole and on second read-

ing. I prefer myself that the whole section should be opened.

Mr. D. N. WHITE. This subject was referred to the committee by resolution of this House.

The PRESIDENT. A point of order is raised.

Mr. D. N. WHITE. I am speaking to the point of order. A certain subject was referred to a committee of this body by a vote of this House.

Mr. BUCKALEW. I rise to a question of order.

The PRESIDENT. What is your point of order?

Mr. BUCKALEW. My point of order is, that a point of order has been raised here and the Chair must decide the point without debate. The gentleman from Allegheny cannot go on discussing the subject.

The PRESIDENT. The Chair decides the point of order well taken. He must also decide the amendment of the gentleman from Columbia not in order, as it is not to the subject-matter of the section, but is upon a distinct subject.

Mr. BUCKALEW. I beg pardon of the Chair.

The PRESIDENT. I cannot decide otherwise.

Mr. BUCKALEW. This amendment is in relation to the very subject-matter of the section, which is upon the question of ratio. I agree with the Chair in his principle, but I ask him to examine the amendment when he will see that it bears directly on the very question of ratio. I do not want to be obliged to appeal from the decision of the Chair.

Mr. HARRY WHITE. Let the delegate from Columbia request that this amendment be added by unanimous consent. It seems to me that the Convention would agree to add this proviso unanimously. I think it is right.

Mr. BUCKALEW. I claim the right to offer this amendment, and I ask the Chair to look at the amendment and see that it refers to the subject of ratio.

Mr. HARRY WHITE. I beg the delegate to defer his right. Have the amendment made by unanimous consent. I ask unanimous consent myself to have this amendment added.

Mr. BROOMALL. I desire to ask a question. Has the gentleman ascertained whether that provision will not necessarily make either more or less than fifty Senators; I am not sure that it will, but I want to know.

Mr. HARRY WHITE. I am satisfied that it will not.

Mr. BROOMALL. I am satisfied that the means of getting at the ratio is to be ascertained by working out the State, and in no other way.

The PRESIDENT. The gentleman from Indiana asks unanimous consent to have the amendment of the gentleman from Columbia inserted. Shall he have unanimous consent to do so?

Mr. EDWARDS. I object.

The PRESIDENT. There is objection.

Mr. BUCKALEW. I beg leave very respectfully to appeal from the decision of the Chair.

The PRESIDENT. The Chair will reconsider his decision and permit the amendment to be offered.

Mr. JOSEPH BAILY. Let it be read.

The CLERK read as follows:

"Provided, That the senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty."

The PRESIDENT. The Chair withdrew his decision because the amendment refers to the subject-matter of the section. If it had referred to a distinct matter the Chair would have, in his present state of mind, ruled as he did when he misapprehended the amendment of the gentleman from Columbia. The question is on going into committee of the whole to make the amendment suggested. Will the House agree to the motion?

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

The CHAIRMAN. The committee of the whole has had referred to it the amendment of the gentleman from Columbia. The amendment is inserted pursuant to the instructions of the Convention, and the committee of the whole will rise.

The committee rose, and the President having resumed the chair, the Chairman of the committee of the whole (Mr. Carter) reported that the amendment had been inserted in accordance with the directions of the Convention.

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

The section as amended was passed.

ADJOURNMENT TILL AFTER ELECTION.

Mr. S. A. PURVIANCE. I now ask that the Convention proceed to the second reading and consideration of the resolution offered by me a few days ago, in re-

ference to adjournment until after the election upon our amendments.

The PRESIDENT. The resolution will be read for information.

The CLERK read as follows:

Resolved, That when this Convention adjourns, it will adjourn to meet the second Tuesday after the day fixed for the election, for the purpose of examining the returns of votes polled for and against the new Constitution, before proclamation shall be made by the Governor, and for the purpose of taking cognizance and disposing of frauds, if any shall be practised at said election, and transacting such other business as may be deemed necessary and proper.

Mr. S. A. PURVIANCE. I move that the resolution be read the second time.

The motion was agreed to, and the resolution was read the second time and considered.

Mr. S. A. PURVIANCE. In framing this resolution I had reference to the fact that in the act of Assembly calling this Convention into existence and providing for its organization, there is no provision whatever made for a contested election. It seems to me that this body is the only tribunal that can take cognizance of anything of the kind if it should occur and become necessary. The Legislature has no such power. The Governor has no such power. It is simply declared that when the election is over, a certified copy of the returns is to be filed in the prothonotary's office of each county, and a copy forwarded to the Secretary of the Commonwealth, and when the returns are opened and counted, the Governor is to make proclamation of the fact whether the Constitution has been carried or has been defeated. The most glaring and the most palpable fraud that may be conceived may pass under the eye of the Governor without any power on his part to remedy it, and, therefore, it is all important that this body should meet again after the election. Now, this resolution says:

"That when this Convention adjourns, it will adjourn to meet the second Tuesday after the day fixed for the election, for the purpose of examining the returns of votes polled for and against the new Constitution."

And it also says, that this meeting of the Convention shall be "before proclamation shall be made by the Governor, and for the purpose of taking cognizance and disposing of frauds, if any shall be

practiced at said election, and transacting such other business as may be deemed necessary and proper."

The Convention of course can fix any time they may think proper, but I believe it of importance that action should be taken on this resolution, and the time fixed for our meeting after the election on the amended Constitution.

Mr. HARRY WHITE. I move to amend the resolution striking out all after the word "adjourn" and inserting the words "*sine die*."

My purpose in offering this amendment is to be consistent with myself. I do not know how my fellow-delegates feel on this subject, but, for one, I shall never vote for a resolution to adjourn and meet at a future time for the purpose of counting the votes.

Mr. MACCONNELL. I would like to ask the delegate from Indiana whether, if we adopt his amendment, it would not adjourn the Convention to-day *sine die*. He desires the resolution to read:

Resolved, That when this Convention adjourns, it will adjourn *sine die*.

That would require a final adjournment this afternoon.

Mr. HARRY WHITE. I have no intention of any such action. I will modify my amendment as follows:

Resolved, That when the labors of this Convention are completed, it shall adjourn *sine die*.

The PRESIDENT. The gentleman from Indiana modifies his amendment, and the amendment as modified is before the Convention.

Mr. HARRY WHITE. In support of my motion I have only this to say, that I have no feeling on this subject except a conviction of duty. The purpose of the resolution is clear upon its face. The delegate from Allegheny offers a resolution that when this Convention adjourn it adjourn to meet at a certain time, the second Tuesday after the election, to count the votes and to correct frauds if any have been perpetrated; I do not recollect its precise wording and I have not a copy of the resolution before me. I hope no frauds will be perpetrated; but be that as it may, it is with me a question of power. When I was elected a delegate to this Convention I was elected under the clear provisions of the act of the fifteenth of April, 1872, and in that act I discover what has already been referred to in section six, that the election upon the Constitution

submitted by this body shall be conducted in a particular way.

"It shall be the duty of the return judges of the respective counties, first having ascertained the number of votes given for or against the new Constitution, or separate specific amendments, if any, to make out duplicate returns thereof, expressed in words at length, one of which returns so made shall be filed in the office of the prothonotary of the proper county, and the other sealed and directed to the Secretary of the Commonwealth; which said returns shall be opened, counted and published, as the returns for Governor are now by law counted and published; and when the number of votes given for or against the new or revised Constitution, or for or against specific amendments, if any, shall have been summed up or ascertained, and duplicate certificates thereof delivered to the proper officers, the Governor shall declare by proclamation the result of the election."

That is a clear and distinct provision which I find in the organic act assembling this Convention. We have all been sworn to perform our duties each and all as we understand them. I understand my duty to be to observe that act of Assembly, and I am clear in the conviction that it is our duty, when we have finished our work, to adjourn finally, and submit our amendments to the people of the Commonwealth in such manner as we may see fit, in pursuance of the prior section of this act of Assembly of April fifteenth, 1872. Then when the election is had, the returns must be counted, as has been indicated. How is that done? Upon the second Tuesday preceding the inauguration of the Governor, which is the third Tuesday of January, both branches of the Legislature meet in joint Convention, the votes are opened and counted, and a certificate is issued accordingly. That is the way the votes for Governor are counted.

These are the provisions of the law under which we are acting. I believe them to be binding upon me. I believe we have no authority to repeal this act of Assembly. I know gentlemen talk about the sovereignty of this Convention, and its representing the so-called sovereignty of the people. I have no quarrel with any gentleman about that. It is sufficient for me to say that it is not in the power of this Convention to repeal an act of Assembly. We may enact general laws; we may enact fundamental princi-

ples and submit them to the people for their rejection or ratification. We may insert in the body of our work that we submit to the people an act of Assembly, and if the people ratify it, it becomes the fundamental law of the land, but it only becomes the supreme law of the land because of the ratification by the people.

The distinction I desire to draw is that we, as a Convention, without the ratification of the people, cannot repeal, in terms, an act of Assembly. This act of Assembly has been passed in pursuance of the requirements of the Constitution. It has been passed through both branches of the Legislature, has received the sanction of the Governor and is the law of the land. We, as a constitutional body, different from the Legislature, have not the power to repeal it. Hence I cannot, in the performance of my duty here, lend my sanction to the adoption of a resolution which will repeal, by this Convention, an act of Assembly which has been regularly passed, and that repeal to go into effect without any ratifying vote of the people themselves.

Mr. NEWLIN. Mr. President: I trust the amendment will be voted down and the original resolution adopted. I favor an adjourned meeting at which the result of the election may be announced by the Convention itself. I think it is not important whether this contravenes the act of Assembly calling the Convention or not. The Legislature can only provide the preliminary machinery for electing the delegates, but after the Convention has once assembled the act of Assembly cannot control its action in any particular. To contend otherwise would be to admit that the Legislature might prohibit the very reforms which that body has made necessary by its frequent and by continued abuse in the matter of special legislation. Again, the Convention is a direct emanation from the people outside of and beyond both the laws and the existing Constitution—as that instrument does not provide for calling Conventions at all, whence it follows that neither the act of Assembly nor the present Constitution can control its action. There are numerous precedents in favor of this view of the case. In Pennsylvania, in 1790, the Convention wholly disregarded the act of Assembly which called it together. Some Conventions in submitting their work to the people have provided that persons *thereafter* qualified by the new Constitution should themselves vote upon the

adoption of the very instrument giving them the elective franchise. This was done in Rhode Island in 1842, in Virginia in 1829 and 1850, and in West Virginia in 1863. In New Hampshire in 1783 some parts of the Constitution were adopted and others rejected so as to make incongruous those which were adopted. The Convention re-assembled, revised and united all the adopted articles. The Massachusetts Convention of 1852 also negated the idea that the Legislature might restrict the powers of the Convention. Indeed the Federal Convention of 1787 was composed of delegates whose powers were limited, but they did not consider themselves bound thereby. The weight of authority is overwhelmingly opposed to the theory that the Legislature may impose restrictions on a Constitutional Convention.

Mr. HANNA. I move that the further consideration of this resolution be indefinitely postponed.

Mr. LITTLETON. I second the motion.

Mr. HANNA. I make that motion for two reasons: First, that we may discuss the resolution upon its merits; and secondly, because I am earnestly in favor of indefinitely postponing it. Now, sir, this is a resolution which commands our serious attention and careful consideration. It is one of great moment and should not be acted upon by the Convention hastily and without deliberation. I think this body—

Mr. MANN. I ask the gentleman to give way that I may make a suggestion. I understand the chairman of the committee having the ordinance in charge is ready to report. It seems to me it is evident this will take up a great deal of time. Why not take up the report of the committee on the ordinance and let us proceed with our regular business.

Mr. HANNA. I presume this resolution is called up for the purpose of action. Why should we postpone it for the present? I am in favor of meeting the question now and trust that the delegates in this Convention are prepared to vote upon it. I am opposed to it because I believe we have no right to pass such a resolution; we have no power to do it.

Now, what does it propose to do? It proposes that after we have completed the labors we were called upon to perform, we shall meet at Harrisburg or Philadelphia for the purpose of examining the returns of votes polled for and against the new Constitution. What right

have we to do that? What power have we over the votes cast at the election? Again, sir, "for the purpose of taking cognizance and disposing of frauds." What right have we, I ask, to deal with that? Suppose frauds shall be perpetrated, what power have we to correct them? Suppose we should be satisfied that such were committed at the election called to vote on the adoption of this Constitution. What power or authority have we? Can we order another election to vote on the Constitution? I think not. We are a law-abiding body; we meet in pursuance of law; and I believe every lawyer certainly will, on the construction of the act of Assembly, say that where it is silent we have no power. The full intent and meaning of the act of Assembly under which we meet is decidedly against any further action in the premises. When we have approved to our satisfaction the Constitution, it is to be submitted to the people. If they approve it, it becomes, after proclamation of the Governor, the Constitution of the Commonwealth. There our duty ends. It strikes me as an anomaly, a wonderful anomaly, to say that a Constitutional Convention, after they have adopted a Constitution, can meet again, adopt another Constitution, if you please, or amendments to it, and then further proceed to inquire into the regularity of the election held by the people to approve or disapprove of the Constitution which that Convention has prepared.

I am firmly of the conviction that our duty ends with the performance of the labors assigned us by the people. When we have approved a Constitution and submitted it to the people, we have nothing more to do with it. It is then in the hands of the people.

I, therefore, for these reasons and in addition to those mentioned by the gentleman from Indiana, (Mr. White,) cannot support any resolution looking forward to any meeting of this body after we have performed our duty, either to regulate or to decide upon or to inquire into the regularity of the election, or anything else connected with the formation of a Constitution.

Mr. CURTIN. Mr. President: The first day this Convention assembled this question was raised, raised by one of the most eminent jurists in this Commonwealth, no longer in his place here, and the Convention decided that the action of this body should not be controlled by the act of the Legislature. That was on the

question of the power of the Convention on the Bill of Rights.

Now, Mr. President, it is very true that the act of Assembly authorizing the people of Pennsylvania to call a Convention by their votes passed through the regular grades of legislation. The delegate from Indiana no doubt is correct in saying that it was passed by one House, then by the other, and signed by the Governor; but gentlemen must remember that the existence of this Constitution depends on another and higher power, with all the deference the gentleman from Indiana pays to the people, and I am quite sure from what he says that in this Convention on this occasion and all others he has a vast, profound respect for the people and about as much affection as a man ought to have who has enjoyed office, which he has filled and ornamented for so many years. We are all very apt, as my friend from Indiana knows, to enlarge our affections and to think much of the people when we desire their suffrages. I own that soft impeachment myself. But that gentleman should remember that after the Legislature have acted it is merely put in operation the means by which the people of the Commonwealth shall speak; and when the people at the election decided that they would hold a Convention to remodel the Constitution, to propose amendments or to change it, the power of the Legislature ceases and we act from the power of the people, a tribunal to which the gentleman from Indiana always pays just and proper deference.

Now, Mr. President, we can adjourn to meet next week, the week following, or the week after that. We can adjourn to meet after the election or before it; nay, more, I contend that if the people reject any part of this Constitution, we are a living body still and can amend a new article and offer it to them again. We are not limited or restrained by the action of the Legislature that brought us into existence. We are limited and restrained only by the action of the people that created this body. We were born of the people, and it is pleasant in this Convention to see that we pay deference to that voice which, when heard, must be obeyed. I have often said it, and said it with great feeling, that to have and deserve the confidence of the people is the highest honor, but I always found myself more earnest when I said that at a time when I wanted votes for myself than

when I wanted them for other people. [Laughter.] I confess that, and I have no doubt my friend from Indiana has felt about in the same way, and it is well enough to speak of the people of course, speak of them with respect, and if ever they deserve the respect of a body of men it is that in their sovereign capacity they declared first by two hundred and forty thousand majority that the organic law needed reform, and then paid us the high compliment and honor of sending us here to make that reform. There is no limitation as to the life of this Convention. We can sit for ten years if we please, barring the fact that the money will run out. [Laughter.] We can offer this Constitution in articles, in sections or as a whole. We can override all the limitations thrown around us by the Legislature, and as a living body representing the people of this vast Commonwealth, we perform our duty when we sit to the last moment that one single man shall perpetrate a fraud by which any of the reforms made in this Convention may be defeated. I say that this Convention having been called and enjoying a large measure of the confidence of the people of this Commonwealth should not have that confidence betrayed by any fraud on the result of their deliberations.

Having the power to adjourn from time to time, this Convention is not limited to the day its offspring is submitted to the people. The power to submit a part cannot be controverted, and if that proposition is true we could if the people reject articles prepared offer new or different articles to them for their approval, and that might be our duty on our reassemblage after the day of election.

I am in favor of the resolution of meeting after the votes are counted, and if there be fraud in the election and any of the just reforms made by this Convention are defeated by fraud, we will lay our hands on it and correct it ourselves, because we have the right of the sovereign people to do our duty and see that their trust is not betrayed.

Mr. NILES. I simply desire to call the attention of the Convention to the fifth section of the act of Assembly which called this Convention into being, and it is in direct opposition in my judgment to the construction put upon it by the distinguished delegate from Indiana. I believe that this resolution which we are now considering is in direct consonance with the act of Assembly. It says:

"The Convention shall submit the amendments agreed to by it to the qualified voters of the State for their adoption or rejection, at such time or times, and in such manner as the Convention shall prescribe."

It seems to me that this very thing was in the eye of the law-maker when he penned that section. What does "times" mean? If great frauds are to be perpetrated, if this Constitution is to go down under an avalanche of 50,000 fraudulent votes in this city, as has been intimated, where is the remedy? I believe we have the right, and as was said by the distinguished delegate from Centre, if frauds are perpetrated we can lay our hands on them, correct the abuses and submit the Constitution again. I believe in this act of Assembly. I have stood upon it and I believe the pending resolution is in harmony with it.

Mr. EWING. Mr. President: It has been said on the floor to-day, as it has been repeated over and over, that at Harrisburg this Convention decided that it was not bound by any act of Assembly calling it together. Having voted with the majority at Harrisburg on the question that is supposed to have decided that point, I wish to protest against any such interpretation of my vote. I voted there to create a Committee on the Bill of Rights, without dreaming that I was voting that this Convention was not bound by the act of Assembly. I did not consider it then, and do not consider it now, to have been raised at all in the case. It is true some of the speeches made in the Convention on the subject went on that ground.

The proposition submitted by my colleague (Mr. Purviance) to meet after the election may be for two purposes. One which I think it might suit very well would be, that after we have finished our work here and been separated for some six or eight weeks, we might have a pleasant reunion at Harrisburg, and, to those who have time to attend to it, I think it would be a very pleasant and harmless excursion and reunion.

Another aspect of the question is our right to investigate and count the votes that are cast for the amendments that we offer to the people and, I presume, to proclaim their adoption. Now, without going into details or citing authorities, I wish to indicate briefly my views on the position that this Convention occupies. The Constitution under which we live

does not provide for calling together a Convention such as we are. It is true it does provide in the Bill of Rights that the people have the right "to alter, reform or abolish their government in such manner as they may think proper," but *how is that pleasure to be arrived at?* By constitutional forms, by legal procedure. It is supposed that it will be done in harmony with the government, or in another way, it may be done by a revolution. That revolution may be peaceful, or with force, as the existing government may resist or acquiesce in it.

Now, we are not here exercising our rights and performing our duties under any revolutionary movement. We are here in harmony with the existing State government, called into existence under the authority of the existing government, and as I understand our position, our duty is precisely that which is prescribed to us by the act calling us together and the act under which we were elected, and that is to prepare amendments or a new Constitution, and have it submitted to the people as directed by the act of Assembly; and when we have performed our duties in that respect, prepared all these amendments for submission, we have ceased to live as a Convention for any legal purposes. The State government, as I say, has practically called this Convention. It is in harmony with the existing State government, and the act calling us together provides for our going on in the same harmony. Suppose that we undertake to control the election, ignoring the act of Assembly on the subject, what right, what power have we to enforce this resolution? Where do we get the right? Certainly not in the Constitution; certainly not in the act of Assembly.

It is true that the delegate from Tioga (Mr. Niles) has read the act that speaks of the Convention submitting amendments "at such time or times" as it may prescribe. I think the fair interpretation of that is that we might submit one part of our work at one time and another part at another time. We might have submitted some articles or sections at the last October election and others at other elections. But in my opinion we have no right to submit this Constitution in any other way than that designated in the act of Assembly, and we have no power to supervise election returns that is provided for otherwise, and whenever we step outside of that we are acting in a revolu-

tionary manner. It is true the people might submit to it; it is true the existing State government might acquiesce in it and it would then all be adopted and go into operation peacefully; it might not create any difficulty; but suppose the State government says no. Suppose that the officers of the State government and the Legislature should undertake to perform their duties and see to the enforcement of the laws and refuse to give up the State government to the officers elected under the Constitution proclaimed by the Convention, what then? Would it not be the duty of the United States government under the Constitution and laws of the United States and in accordance with the decisions of the Supreme Court on the subject—would it not be the duty, I say of the government of the United States to support the existing government of this State with all the power and force of the United States and keep it in power and put down any attempt to overthrow it?

I have no idea that anything of this sort is likely to occur, and if there were a necessity for a revolutionary proceeding, if there were any great public necessity for us to assume authority that was not regularly in our hands, I would take the responsibility. I believe in revolution at certain times, and in taking the responsibility of it; but I see no necessity for it in this case, and I shall vote against the resolution unless it be intended as a mere pleasant gathering, and I shall vote against every proposition which asserts any power of this Convention to exercise any authority after it adjourns here, having prepared these amendments for submission to the people; and so far as the President of this Convention having the authority to examine and receive and count the returns and proclaim the result, he has just the authority that the presiding officer of any of these religious bodies that have assembled in this city within the last week or two would have to receive those returns, and no more; and this Convention can neither exercise nor confer such power.

Mr. ALRICKS. Mr. President: This is entirely a question of expediency. I do not agree that our powers are at an end as soon as we adjourn. We have heard that section of the statute read, which shows clearly that we may submit our work to the people, and if it be discovered that any portion of that work requires future

amendment, we may assemble again for that purpose.

Mr. President, the simple question here is whether our office is *functus officio*, when we shall have submitted this branch of the Constitution to the people for their approval. I apprehend that the argument of the gentleman from Centre, (Mr. Curtin,) cannot be controverted that we are the representatives of the people and stand in their place, and as soon as we were elected the power was committed to us, and that our office is not *functus officio* when we submit the articles, but it will be so when this Convention thinks proper in their wisdom to adjourn *sine die*.

Now for my own part, I should not be very anxious that we should re-assemble unless our work was approved of; but if it was defeated by corruption at the polls we undoubtedly should have the power to review the misconduct of election officers, and to see that our work was fairly passed upon by the people; and that would be the only justification we should have for re-assembling. When the time comes I shall move to alter this resolution, if the postponement indefinitely does not take place, because I do not think we ought to anticipate anything like corruption on the part of the people. Therefore, we should simply have a proposition submitted that we shall assemble after the people have voted upon those articles which we have adopted. If it is the pleasure of this Convention to say that after there has been a vote upon those articles it will be necessary for us to reconsider other articles and place them in another form, we unquestionably have that power, and it is simply a question of expediency on the part of the Convention.

Mr. W. H. SMITH. Mr. President: I do not think it necessary to take up the time of the Convention with any argument to show that the Convention has the power to do this thing. The Convention itself furnishes a precedent for the action that is now desired in disregarding a prohibitory sentence in an act passed, and I believe in all courts of justice the precedent of a decision of the highest court considered about as good law as you generally get. Now, what is the act of Assembly? That nothing herein contained shall authorize the said Convention to change the language, or to alter in any manner the several provisions of the ninth article of the present Constitution, commonly known as the declaration of rights, but the same shall be excepted

from the powers given to said Convention, and shall be and remain inviolate." When committees were appointed to take charge of the various articles to be prepared, the question whether this proposition of the Legislature should be attended to was submitted to the Convention, and the vote refusing to be governed by it was one hundred and six to eighteen, thereby clearly asserting for this Convention the right to disregard that much of the act only as laid any restriction upon them about what they were to deliberate upon, or about the progress of their deliberations. This project to count the votes is not in contravention, it is not in defiance of the act of Assembly organizing this body. This clause recited from the act was directly disregarded and nullified, and we asserted our superior power when the Legislature undertook to restrain us in this matter of the ninth section—the Bill of Rights. But this proposition is entirely different, and not nearly so positive in its character. What we now want to do is not what the Legislature has forbidden, and we have asserted here before that we have the right to do what the Legislature forbids. Therefore I think we have the power to do this thing, and it is only a question of expediency whether we shall meet at Harrisburg to count the returns or not.

Mr. LAMBERTON. Mr. President: There is a view of this question which I think is worthy of the consideration of the Convention. Assuming for the purpose of argument the position taken by the delegate from Indiana as a sound one, that the act of Assembly of 1872 providing for the calling of this Convention is obligatory in all its parts upon us, by reference to section six of that act it will be found that there is a simple ministerial duty imposed upon the Executive. I read from the section.

"The election to decide for or against the adoption of the new Constitution or specific amendments, shall be conducted as the general elections of this Commonwealth are now by law conducted; and it shall be the duty of the return judges of the respective counties, first having ascertained the number of votes given for or against the new Constitution or separate specific amendments, if any, to make out duplicate returns thereof, expressed in words at length, one of which returns so made shall be filed in the office of the prothonotary of the proper county, and the other sealed and directed to the Secre-

tary of the Commonwealth; which said returns shall be opened, counted and published, as the returns for Governor are now by law counted and published; and when the number of votes given for or against the new or revised Constitution, or for or against separate specific amendments, if any, shall have been summed up or ascertained, and the duplicate certificates thereof delivered to the proper officers, the Governor shall declare by proclamation the result of the election.

The returns are to be opened, counted and published as are those for Governor, and he is to make proclamation of the result. Manifestly there is a *casus omissus* in this act of Assembly in that it fails to provide any tribunal for the investigation of frauds which may be perpetrated at the election. It would be difficult for any lawyer in this Convention to point out how frauds are to be investigated and ascertained outside of the manner provided by the resolution of the delegate from Allegheny. By law, if an undue election or a false return for Governor be alleged there is a tribunal constituted for the purpose of ascertaining the fact. If a contest is made in any other election there is also a proper tribunal provided for the trial by the Constitution or by acts of Assembly; but if the frauds committed at the election held for the adoption or rejection of this Constitution are mountain high you have no way of reaching the truth unless this Convention shall provide for the investigation. Can any better method, or more appropriate tribunal be suggested than that proposed by this resolution? If the act of Assembly is imperative and binding, and the Governor shall make his proclamation, let the Convention reserve the power to revise and pass upon the returns. Then if this body should ascertain that from any portion of the Commonwealth there have come up false and fraudulent returns it can put the seal of its condemnation and reprobation upon the fraud and provide the proper means of remedying and curing the evil.

For this reason if for no other I shall vote unhesitatingly for the adoption of the resolution offered by the gentleman from Allegheny.

Mr. BROOMALL. I only desire to say that unless we propose to submit this Constitution as a whole so that it may be voted up or down at once leaving us under the old Constitution or the new one, it will be necessary for us to reserve the

power to put together the pieces that the people may adopt so that they may fit. Otherwise no man will know what the Constitution is when we are done.

Mr. CLARK. Mr. President: On a previous occasion I stated to the Convention my conviction that as a Constitutional Convention we were bound by the limitations of the act of Assembly calling us together. At that time I insisted that we were a constitutional body, as distinguished from a revolutionary one; that we were called under the provisions of the Constitution, to amend the Constitution in a constitutional way, and that therefore we were limited by all restrictions imposed upon us in and under constitutional authority. I still firmly adhere to the opinions I then expressed and I find many in this Convention have at last yielded to the soundness of that doctrine, who hitherto have maintained a contrary opinion. Adhering as I do to this view of our powers, I am still of the opinion that the question now before the Convention does not raise an issue as to our powers to transcend the limitations of the act of Assembly. By the express reading of the act of Assembly, we are empowered to submit our work to the people, "at such time or times" as we may think advisable and proper. The terms of the act throughout indicate that we may perform the duty of submission as in our discretion we may think best. Our commission from the Legislature is to make a new Constitution, or propose amendments to the old one, and submit the same to the people, "at such time or times" as we may designate. This language in the act clearly expresses the intention of the Legislature to be that we may submit the whole at one time, or at different times or in parts.

Suppose Mr. President, we had first completed the article on the Legislature, will it be doubted that we might have submitted that article to a vote whilst we were yet in session preparing other articles? I think not. If that article had been defeated at the election could we not have prepared another article covering the same subject, eliminating the matters which rendered it obnoxious to the people, and again sent it out for their approval? Unquestionably we could. Our duties are to propose amendments to the Constitution, or prepare a new one, and we are not *functus officio* until we adjourn finally. As long as we remain in session we may send propositions to the

people. If, then, Mr. President, we submit our work in separate propositions, that is to say, the bulk of the Constitution in one proposition, and separate articles and sections in distinct offers to a separate and distinct vote, and the election results in the rejection of certain of these, how shall we supply the deficiency? Our Constitution has been made with a view to the whole, a complete instrument, to take the place of and abrogate the old. The rejection of any of these articles must necessarily render the instrument unsatisfactory and incomplete. The symmetry of the whole will be marred and its usefulness impaired. Under these circumstances these defects should be supplied, and the defeated articles replaced by others more acceptable to the people.

It may be, too, that the work of the Convention may be defeated by fraud at the election. In such a case we would probably not have power to investigate the fraud, punish the offenders, or set at defiance the expressed vote of the people. This, in my judgment would be beyond the line of our power; but if, upon an investigation of the frauds, we were satisfied that a clear and palpable outrage had been perpetrated, we then might re-submit the article, or another one in lieu of it, to another vote under such restrictions and limitations upon the election officers, and taking such precautions as would secure a fair election, as we now propose to do in the city of Philadelphia.

I am therefore in favor of the motion or resolution before the House. I believe the meeting of the Convention in Harrisburg might be productive of great good, and that we should not adjourn *sine die* until our work is fully accomplished.

Mr. HARRY WHITE. I am not going to protract this discussion. I merely desire to place my position accurately on the record. I am not in antagonism to the delegate who has just taken his seat or other delegates on this floor as to the power of this Convention to adjourn to-day and meet on the first day of February next; I am not in antagonism to the position of gentlemen who say that this Convention might adjourn to-day to meet on the day after the election and frame a new Constitution and submit it to the people. But I desire my position to be distinctly understood in this way: The act of Assembly calling this Convention into existence proscribes that the returns shall be made in a particular manner; those provisions of that act of Assembly

must be regarded; and as sure as night follows day if we regard them, and I believe we should, the election officers who hold this election must make the returns of the election as the returns are made of an election for Governor. How is that done? Triplicate returns, after the others are disposed of, are sent to the Secretary of the Commonwealth. He takes them by message, on a day designated, to a joint convention of the Legislature. There they are opened, and the Legislature goes through the ministerial act, if you please, of counting and adding together the votes. If in the performance of their functions, however, a contest arises between two sets of returns, it is the duty of that joint convention to pass upon that question and decide under the law, under the act of 1839, which is the regular and which is the irregular return. Now, sir, I consider that it is the bounden duty of every election officer to make that return as he makes returns for the election of Governor, to send triplicate copies to the Secretary of the Commonwealth, and the Secretary of the Commonwealth must take those returns, and submit them to a joint convention of the Legislature, and the Legislature, thus in joint convention, pass upon them under this law, mark you just as the Legislature did last year upon the returns for Governor. That is my point. No difference what we do, no difference what our action is here about adjourning, no difference what formula we may establish about revising the action of the Legislature, if you please, or the action of the election officers, this form of law must be regarded.

Then, sir, it resolves itself into a question of expediency, and inasmuch as our legal duty, to my mind, is so clearly defined, I insist that it is inexpedient for this Convention to excite a conflict of this kind. I submit that if you take the proposition and go before the people with this resolution passed as I find it upon the Clerk's desk, providing for an adjournment and a re-assembling after the Constitution is voted upon, for the purpose of submitting a new Constitution to the people, you will make votes by scores against your instrument. The people, after we have submitted to them our work, resume their sovereignty, and when they pass upon it, I apprehend that it is all we should require. If we seek then to go over their action, overturn what they do, and meet in sovereignty again, if you call it such, to frame a new Constitution and to sub-

mit it to them, it will make hundreds of votes against our Constitution; and to avoid a conflict of that kind I favor an adjournment *sine die*.

Mr. President, let no man apprehend for a moment that this is mere demagogism on behalf of the people. I throw back any remark or any insinuation about demagogism. So far as I am concerned, I fear not to go before the people. I am not specially the guardian of the people here. I am an officer of the law, exercising my high functions under an oath, as I understand it; and I apprehend that those gentlemen who are prating about the people and talking about fraud to make their position popular are indulging in that demagogism which they charge upon others. I am in the interest of this Convention; I am in the interest of this Constitution. I want to avoid doing those things which will excite improper jealousy between the people, our masters, and our work.

Mr. DALLAS. Mr. President: I desire to say but a few words in consequence of what the gentleman from Indiana has just said. I think, after his explanation of his own position as the mover of the pending amendment, there can be little difficulty on the part of those who think as I do, that it is desirable that we should meet after the election, in determining what our votes should be upon this proposition. He says that he does not doubt the power of this Convention to adjourn to meet after the election; his only doubt is as to the extent of its powers after it shall have so met. Now, sir, cannot we all safely defer the discussion and determination of that question until we do so meet? He agrees with those of us who disagree with him in other respects, as to our power to adjourn to meet again after the election. I hope that the entire Convention will agree with him in that. Certainly if we have that power, (without now discussing what our powers upon our meeting will be,) it is expedient that we should again meet. What frauds may occur at the election, what difficulties may arise, what position our work will be in, no man can now foresee, and what may be proper and necessary for us then to do it would be premature now to decide. It is only necessary to pass this resolution to give us the opportunity to meet, and to at least investigate and to make public what has been the action of election officers and those concerned in the election upon the

Constitution, and it may be that it will not be requisite that we should do more.

The PRESIDENT. The question is on the indefinite postponement of the resolution.

Mr. HARRY WHITE. I call for the yeas and nays.

Mr. LAWRENCE. I second the call.

The yeas and nays were taken and resulted as follows:

YEAS.

Messrs. Bardsley, Boyd, Ewing, Gibson, Hanna, Lawrence, Mann, Smith, Henry W., Stanton, White, David N. and White, Harry—11.

NAYS.

Messrs. Achenbach, Addicks, Ainey, Alricks, Andrews, Armstrong, Bailly, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Barclay, Barr, Beebe, Biddle, Black, Bowman, Brodhead, Broomall, Brown, Buckalew, Campbell, Carey, Carter, Church, Clark, Cochran, Collins, Corbett, Cronmiller, Curry, Curtin, Dallas, Darlington, Davis, De France, Dunning, Edwards, Elliott, Finney, Funck, Gilpin, Green, Guthrie, Hall, Hay, Heverin, Horton, Howard, Hunsicker, Kaine, Lamberton, Landis, Lilly, Littleton, Long, MacConnell, M'Camant, M'Clean, M'Culloch, M'Murray, Mantor, Minor, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Purviance, Sam'l A., Reed, Andrew, Reynolds, Rooke, Runk, Russell, Smith, H. G., Smith, Wm. H., Struthers, Temple, Van Reed, Wetherill, J. M., Wherry, White, J. W. F., Woodward, Worrell, Wright and Walker, *President*—90.

So the motion was not agreed to.

ABSENT.—Messrs. Baer, Bartholomew, Bigler, Bullitt, Calvin, Cassidy, Corson, Craig, Cuyler, Dodd, Ellis, Fell, Fulton, Harvey, Hazzard, Hemphill, Knight, Lear, MacVeagh, M'Michael, Metzger, Mitchell, Mott, Parsons, Pughe, Read, John R., Ross, Sharpe, Simpson, Stewart, Turrell and Wetherill, Jno. Price—82.

Mr. MANN. I hope that we are now ready to proceed with the regular business of the Convention, and I therefore move to postpone the further consideration of the resolution for the present.

Mr. DARLINGTON and Others. Oh, no; let us dispose of it now.

The PRESIDENT. The question is on the motion of the delegate from Potter (Mr. Mann.)

The motion was not agreed to.

Mr. MANN. Mr. President: If this resolution is to be pressed upon the Convention, I propose to present such objections to it as seem to me to be pertinent. For one I will never consent to give my support to this resolution. It seems to me that its tendency is revolutionary. If we can adjourn until the second Tuesday after the election, we can adjourn for ten years or for our lifetime. I do not say that there is not power in this Convention to do so. I do not propose to deny the power of this Convention to prolong its existence during the lifetime of the delegates; but I protest against the policy of any such proceeding. I believe, as has been already stated, that this attempt to prolong the existence of this Convention beyond the necessities of our work will be extremely odious.

Does any one deny the proposition that if we can adjourn until the second Tuesday after the election, we can adjourn to any day after this; and that implies the power and disposition to continue our existence until we can frame something that the people will assent to. It means that, or it means nothing.

The argument of the gentleman from Dauphin (Mr. Lamberton) concedes, as I think every intelligent man on this floor will concede, that no matter how much we may investigate frauds, there will be no power on the part of this Convention to interfere with the counting of the votes by the Secretary of the Commonwealth and the existing State government, and that the proclamation of the Governor, provided for by the act of Assembly, will be binding upon us and upon the people of Pennsylvania. I understand the gentleman from Dauphin to assent to that proposition, that, whatever we may do, the proclamation of the Governor, made in pursuance of the act of Assembly, will be binding.

What then are we to meet for? Confessedly, we are to frame another Constitution, or a portion of a Constitution, to supply such parts of it as may be rejected. To that I will never consent. I will never participate in any such attempt to re-frame articles that may be rejected. That would be an exercise of power similar to the exercise of power by the French Assembly now. They were elected for a specific purpose, but having obtained

power, they are retaining it for other purposes. That will be precisely our position if we meet again and attempt, after the Governor has proclaimed the work of our hands defeated, to re-frame it and submit other work to the people again. It will be just what every assembly does that attempts to hold on to power that was not intended to be given to it.

I will not undertake to argue the question of the absolute power of the Convention to do that. I say that it would be exceedingly inexpedient to do it, and for one, I will have no part nor lot in it.

The argument of the gentleman from Pittsburg (Mr. Ewing) cannot be answered; and that is, that this Constitution is to be, if at all, according to the forms of the existing State government or not at all. We have no legal right to meet after the election and attempt to change the returns as received by the Secretary of the Commonwealth, no matter for what reason. I care not if the fraud be apparent and it amounts to a hundred thousand votes, if the Governor and the existing State government do not recognize that fraud, it is out of our power to remedy it; and any attempt on our part to put this Constitution in force against the proclamation of the Governor, made in pursuance of the laws of the existing State government, will be revolutionary, and the United States government would be bound to sustain the Governor and the present State government. There is no use in attempting to plaster this thing over. It means simply revolution or it means nothing. There is nothing else in it. We are powerless to put this Constitution in force except through the machinery organized by the existing State government, and any effort to get up antagonisms and any effort that does get up antagonisms will be exceedingly unfortunate for us and our work. We are to put this Constitution in force according to the forms of the existing laws and organization of the State, or not at all. We may just as well attempt to be in harmony with the existing state of affairs as against it. It will be better for us and for our work.

Sir, this resolution offered by the gentleman from Allegheny contemplates antagonism, or it is nothing. It is a mere farce to meet at Harrisburg if we are powerless to do anything effective, and therefore it is useless to pass this resolution.

Mr. S. A. PURVIANCE. Allow me to ask the gentleman a question. Does not the act of Assembly, to which he seems to attach himself, declare that this Convention shall submit its work to the people at such times and in such manner as we may prescribe?

Mr. MANN. I did not hear the question plainly, but I understand the law to be that we may submit it at such time as we choose. I am not objecting to that. What I say is that the votes must be counted, and the returns made, and the result announced, in accordance with existing law. The time of voting and the manner of it are left to us by the act of Assembly—nothing more. The manner of proclaiming the result is clearly fixed, and we are powerless to change it, no matter how many resolutions we pass. If we are to do anything contemplating the correction of frauds, it should be by an ordinance authorizing the Legislature or some other power to investigate that matter according to the forms of law; and that ordinance can be just as well prepared before we adjourn on Friday as at any other time. There is, therefore, no necessity for this resolution. No possible good can come from it as I think, but I greatly fear that very much harm will result.

Mr. DARLINGTON. I move to amend the resolution by striking out all after the word "Constitution," in the third line, and inserting "and declaring whether it is adopted or rejected." I offer this amendment because I do not like the insertion in the resolution of anything about fraud.

The PRESIDENT. The resolution will be read as proposed to be amended.

The CLERK read as follows:

Resolved, That when this Convention adjourns, it will adjourn to meet the second Tuesday after the day fixed for the election for the purpose of examining the returns of votes polled and declaring whether it is adopted or rejected.

Mr. HAY. I suggest that the word "ascertaining" be substituted for "declaring."

Mr. DARLINGTON. I do not care what the word is. I wish to avoid the intimation that fraud can possibly exist, and yet to retain the power, which we have undoubtedly, to examine into it and decide upon it if it should exist.

One word as to the observations of the gentleman from Potter. I am of the opinion myself, and I think that opinion

is shared by a very large portion of this Convention, that this is entirely a question of expediency. When a vote was taken at Harrisburg which involved the principle whether we were bound by the act of Assembly which brought us into being, the vote was one hundred and six to eighteen, a very emphatic majority settling, I apprehend, the precedent that when the Convention is called into existence it is controlled by no legislative act in any of its proceedings.

It becomes then, I apprehend, absolutely necessary, unless we intend to change some things that we have done, that we should provide in this manner for the holding of an election and the making of returns, and if need be, a proclamation by the President of the Convention, by its authority, as to the Constitution being in operation. We have already prescribed that the Legislature that has been elected this fall, and who will commence their labors at Harrisburg early in January, shall take the oath prescribed by this Constitution, and shall be in all respects under the Constitution, if it shall be adopted, and in some other particulars which we have provided, that it shall take effect on the first of January. If we adhere to that it will be found to be impracticable to submit this to a contest before the Legislature after it shall meet, and a proclamation of the Governor after all that contest is gone through with. It brings us to the necessity of ourselves meeting again to decide whether the election has been held and how it has been held, and whether the Constitution has been adopted or rejected.

Mr. GIBSON. Mr. President: I was just now one of the few who voted for the postponement of this subject; and I did so because I am in favor of an adjournment of this Convention *sine die*. I think that it would be more consistent with the dignity of this body and the duties they were called together to perform to do so, and to submit their labors to a vote of the people under the letter of the act of Assembly that called us into being. I believe that this assemblage is nothing more than an advisory body. It is not revolutionary in any particular. We were called together under the forms of law for a special purpose.

The idea paramount in it was that reforms were needed in the Constitution of the State, and that the people were to vote upon the questions of the reforms that would be submitted to them, and as some

body, as some commission, as some class of citizens must necessarily be selected to advise the people as to the reforms proper and necessary for them, we were called together for that purpose and for no other.

Sir, we have already assumed in this body as much as we could assume consistent with our respect for law. When the question of considering the Declaration of Rights was before this body, I know there were some who maintained that we had absolute right, independent of the Legislature, to consider that article. My ground for voting to consider that was that that very Legislature had said we might make a new Constitution; a new Constitution means an entire Constitution from beginning to end; and therefore any restriction was inconsistent with that grant. That was my ground for favoring the consideration of the Declaration of Rights. And, sir, this body has declared what shall be a new Constitution, if the people will support it, nothing more, nothing less. In my opinion we have nothing to do with specific amendments.

I know that the act of the Legislature says we may make "a new Constitution, or amendments to the present one, or specific amendments to be voted for separately." These provisions are distinct things. Now, sir, we have made a new Constitution from the letter A to the letter Z, from Alpha to Omega; not one article, not one subject, not one section, not one line that could be thought of to be put into the Constitution but has been considered, debated and thoroughly considered in this body. We have taken up the old Constitution, line by line, and we have expunged it. I do not suppose there is a single section of the old Constitution remaining unaltered. The Bill of Rights has some sections of the old Declaration, but even there changes of phraseology have been made.

I also take this occasion to say here that if I stand alone on this subject, I shall vote for nothing else than to submit the question to the people on this Constitution as a whole—for the Constitution or against the Constitution. If we had chosen to take up certain articles of the Constitution, or certain subjects, or certain sections of articles and proposed to the people to vote upon them that such and such an amendment should be made, then it would be well to take up the different subjects and submit them to the people; but when we have gone through all this labor, when we have gone through

all this discussion and all this consideration of every kind, if we have made a whole Constitution, why should we derogate from our labor? Why should we depreciate our own labor? Why should we say that one article is preferable to another? Have we not considered them all? Where is the danger? What do we fear? Why should the railroad article be submitted separately? Why should the article on corporations be submitted separately rather than the articles on taxation or militia, education or future amendments?

It seems that some gentlemen here have the idea that there is a Constitution independent of these articles, which they conceive to be great and important subjects. Not at all, sir. We have considered an entire Constitution from the beginning to the end. It is a new Constitution. If the people do not want it, let them reject it. We have done our duty.

Sir, I have heard delegates on this floor, some who have bitterly opposed certain sections, certain provisions in this Constitution, say that although they object to those things, still there is so much good in the instrument that they can support it. Why, is not that the same with the people? Is there any one single thing in this Constitution that is so bad that it ought to cause any man to vote against it when there is so much good in it? In the article on elections, alone, there is enough to cause every citizen of this State to vote for it, no matter what there is in the railroad or any other article.

I do not apprehend that there is going to be any difficulty on account of any fraud practiced upon us. If there could be, I do not think it is our duty to examine it. I do not see why this Constitution which we submit ought not to receive the unanimous vote of the people. Every man who votes against it will vote against it because he does not understand it, or because he has some prejudice against some isolated section or clause of a section that he may not like; but are we to suppose that all the people are to be so influenced?

I think that it would comport with the dignity of this body, and that it would insure the confidence of the people, if we at once submitted this Constitution under the act of Assembly that called us together, and abide the result, and adjourn *sine die* as soon as our labors are performed, this week or next.

Mr. HALL. Mr. President: I understand the question is now on the motion of the gentleman from Chester to strike out and insert.

The PRESIDENT. It is.

Mr. HALL. That is to make the purpose of meeting simply to count the returns and declare the result. It must be manifest to every person that there must be some other business done at that meeting. For instance, we shall have to audit accounts that will then be presented, as has been explained by the chairman of the Committee on Accounts, and some other business will have to be transacted beside that mentioned in the motion of the gentleman from Chester. It seems to me, therefore, that this motion makes the purpose of the meeting too limited. If instead of the words he proposes to insert, he would insert "and such other business as may be deemed necessary and proper," that would cover the whole case and it would leave the question of the business that is necessary and proper to be transacted to be decided at that time. I therefore propose to amend the amendment.

Mr. DARLINGTON. I accept that modification.

Mr. HALL. My modification is to insert in lieu of the words about frauds, these words: "And transacting such other business as may be deemed necessary and proper."

Mr. LITTLETON. I think this is a very important question, one on which there may be great difference of opinion. I, for my part, should like to have some time to give it proper consideration. I cannot separate myself from the idea that this Constitution must be voted upon under the laws as they exist at present. It seems to me that is the proper view to take of it; but still I have listened with attention to the remarks that have been made here and desire further time for consideration. I therefore move to postpone the further consideration of the subject for the present.

The PRESIDENT. The question is on the motion to postpone for the present.

The motion was not agreed to.

The PRESIDENT. The question recurs on the amendment of the gentleman from Chester, as modified.

The amendment was agreed to.

The PRESIDENT. The question now is on the resolution as amended, which will be read.

The CLERK read as follows:

Resolved, That when this Convention adjourns, it will adjourn to meet on the second Tuesday after the day fixed for the election, for the purpose of examining the returns of votes polled for and against the new Constitution and transacting such other business as may be deemed necessary and proper.

Mr. J. W. F. WHITE. I move to amend by saying "the second Tuesday after the election." ["No." "No."] I want to have as much time as possible between the adjournment of the Convention and the day of the election. It is proposed now to have the election on the second Tuesday of December. That would be the ninth day of December. I think myself that is entirely too early. We ought to have the election before the third Tuesday or the sixteenth day of December. I apprehend that even fixing it at the sixteenth day of December, it will be difficult to get the proper information throughout the State, tickets printed and all the necessary forms to hold the election distributed. (Give as much time as possible for reflection and examination of our Constitution.

Then if the election should be on the sixteenth of December and we appoint the first Tuesday after that for our meeting, it would be on the twenty-third of December, and I apprehend that there would be no serious difficulty in getting the returns from the whole State by that time if the election officers act promptly, as I presume they will do. At all events there will be no difficulty in getting enough returns from the State before that time to know with reasonable accuracy what the result has been. If we should not have the whole returns, if one or two counties should be a few days behind time, we can still attend to our business and wait until those returns come in. The main object I have is to give a week longer to the people of the State to examine the Constitution and understand it.

The PRESIDENT. The question is on the amendment of the delegate from Allegheny.

The amendment was rejected.

Mr. LAMBERTON. I move to amend the resolution by inserting after the word "meet" in the first line the words "at Harrisburg."

The amendment was agreed to.

Mr. CLARK. Now I move to amend by inserting that "when this Convention closes its sessions in Philadelphia it will

be to meet at Harrisburg," &c., because as it stands now I fear it would require an adjournment to-day.

M. S. A. PURVIANCE. I accept that modification.

The PRESIDENT. The question is on the amendment of the gentleman from Indiana (Mr. Clark.)

The amendment was agreed to.

The resolution was read as amended as follows:

Resolved, That when this Convention closes its present session in Philadelphia, it will adjourn to meet at Harrisburg the second Tuesday after the day fixed for the election, for the purpose of examining the returns of votes polled for and against the new Constitution, and transacting such other business as may be deemed necessary and proper.

Mr. BUCKALEW. I move to amend by striking out "second Tuesday after the election" and inserting "Wednesday of the week following the election."

The PRESIDENT. The question is on the amendment of the delegate from Columbia.

The amendment was agreed to.

The PRESIDENT. The question is on the resolution as amended.

Mr. HARRY WHITE. I call for the yeas and nays.

Mr. MANN. I second the call.

The yeas and nays were taken and resulted as follows:

YEAS.

Messrs. Achenbach, Addicks, Ainey, Alricks, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Barclay, Bardsley, Barr, Beebe, Biddle, Black, Bowman, Brodhead, Broomall, Brown, Buckalew, Calvin, Campbell, Carter, Church, Clark, Cochran, Collins, Cronmiller, Curry, Curtin, Cuyler, Dallas, Darlington, Davis, Dunning, Elliott, Finney, Funck, Gilpin, Green, Guthrie, Hall, Hay, Hemphill, Heverin, Horton, Howard, Hunsicker, Kaine, Lamberton, Landis, Lilly, Long, MacConnell, M'Camant, M'Clean, M'Michael, Mantor, Minor, Mott, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W. Patterson, T. H. B., Patton, Pughe, Purman, Purviance, Jno. N., Purviance, Samuel A., Reed, Andrew, Reynolds, Ross, Runk, Russell, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Temple, Van Reed, Wetherill, J. M., Wherry, White, J. W. F., Woodward, Worrell, Wright and Walker,

N A Y S.

Messrs. Boyd, Ewing, Gibson, Hanna, Lawrence, Littleton, M'Culloch, Mann, Smith, Henry W., White, David N. and White, Harry—11.

So the resolution as amended was adopted.

ABSENT.—Messrs. Andrews, Baer Baker, Bartholomew, Bigler, Bullitt, Carey, Cassidy, Corbett Corson, Craig, De France, Dodd, Edwards, Ellis, Fell, Fulton, Harvey, Hazzard, Knight, Lear, MacVeagh, M'Murray, Metzger, Mitchell, Parsons, Porter, Read, John R., Rooke, Sharpe, Simpson, Stewart, Turrell and Wetherill, John Price—34.

ORDINANCE OF SUBMISSION.

The PRESIDENT. Reports of committees are in order.

Mr. BUCKALEW. I make a report from the Committee on Suffrage, Election and Representation, of the ordinance referred to them yesterday.

Mr. DARLINGTON. I wish to inquire whether that is substantially the same as was read yesterday.

The PRESIDENT. It is slightly amended.

Mr. DARLINGTON. I move that it be laid on the table, and be printed for the use of the Convention.

The report was ordered to lie on the table and be printed. The ordinance reported is as follows:

Be it ordained by the Constitutional Convention of the Commonwealth of Pennsylvania as follows:

I. That the amended Constitution, prepared by this Convention, be submitted to the qualified electors of the Commonwealth for their adoption or rejection, at an election to be held on the second Tuesday of December next; except as hereinafter ordered and directed, the said election shall be held and conducted by the regular election officers in the several election districts throughout the Commonwealth, under all the regulations and provisions of existing laws relating to general elections.

II. That at said election, separate votes shall be taken upon the following parts of said amended Constitution, to wit:

1. Upon the article entitled "the Judiciary."

2. Upon the article entitled "Railroads and Canals."

III. The Secretary of the Commonwealth shall at least twenty days before the said election, furnish to the county commis-

sloners of each county properly prepared printed ballots for the said election; the number of ballots so printed shall be three times the number of voters in such county, and the said ballots shall be accompanied by a printed circular of instructions, directing the form of all necessary blanks, tally-lists and returns.

IV. The county commissioners of the several counties shall, immediately after the receipt of the said circular of instructions, cause all blanks, tally-lists and forms of returns to be properly prepared and printed, and at least five days before said election cause to be fairly distributed to the several election boards in each election district in their respective counties, the ballots, blanks, tally-lists and returns hereinbefore provided for.

V. At the said election the ballots shall be in the following form, for persons giving affirmative notes:

NEW CONSTITUTION.

For the new Constitution and for each of the several propositions separately submitted, not struck out with pen or pencil, and against all those struck out.

1. For the article entitled the "Judiciary."

2. For article entitled "Railroads and Canals."

VI. Each of the the said ballots shall be counted as a vote cast for that portion of the new Constitution not separately submitted, and for each separate proposition thereon not struck out with ink or pencil, and against each separate proposition so struck out. Persons voting against the new Constitution or any part thereof, separately submitted, may use a ballot with the same heading and general form, in which the word "against" shall be substituted for the word "for," in such place or places upon the ballot as the voter may choose, and the said ballot shall be counted "for" or "against" that portion of the amended Constitution not separately submitted, or for or against the proposition separately submitted, as the ballots may indicate respectively.

VII. If it shall appear that a majority of the votes polled are for the new Constitution, then so much of the same as was not separately submitted shall be the Constitution of the Commonwealth of Pennsylvania, on and after the first day of January in the year of our Lord one thousand eight hundred and seventy-four; but if it shall appear that a majority of the votes polled were against the new

Constitution, then so much thereof as was not separately submitted shall be rejected and be null and void; if it shall appear that a majority of the votes polled are for the several propositions separately submitted, or for any of them, then the several articles, sections or parts of sections embraced in such propositions separately submitted, or such of them as shall receive a majority of the votes polled as aforesaid, shall be a part of the Constitution of this Commonwealth.

In the event of the rejection of the article upon the judiciary, embraced in separate proposition number one, then the fifth article of the present Constitution, entitled "of the Judiciary," shall remain in full force and be substituted therefor.

In the event of the rejection of separate proposition number two, then the article entitled "Railroads and Canals" shall be struck out and be null and void.

VIII. Five commissioners of election shall be appointed by a vote of this Convention, who shall have direction of the election upon this amended Constitution in the city of Philadelphia. The said commissioners shall be persons of good repute and qualified electors of said city, and shall be duly sworn or affirmed to perform their duties with impartiality and fidelity.

It shall be the duty of said commissioners, or a majority of them, and they shall have authority to revise the registration of voters for the several wards or election divisions of said city, to correct the same, and to furnish the said corrected lists to the election officers of each precinct or division thereof; to distribute the tickets for said city provided for by this ordinance to be used at the election; to appoint a judge and two inspectors for each election division, by whom the election therein shall be held and conducted, and to give all necessary instructions to the election officers regarding their duties in holding the election and in making returns thereof.

The general return of the election in the said city, shall be opened, computed and certified before them, and with their approval—which approval shall be endorsed upon the return. They shall make report directed to the President of this Convention, of their official action under this ordinance, and concerning the fairness of the said election within the said city.

The judges and inspectors aforesaid shall conduct the election in all respects

conformably to the general election laws of this Commonwealth, and with like powers and duties to those of ordinary election officers. Each inspector shall appoint one clerk to assist the board in the performance of its duties, and all the election officers shall be duly sworn or affirmed according to law, and shall possess all the qualifications required by law of election officers in this Commonwealth. At said election any duly qualified elector, who shall be unregistered, shall be permitted to vote upon making proof of his right to the election officers, according to the general election laws of this Commonwealth. Return inspectors and their clerks shall be dispensed with, but overseers of election may be selected for any precinct by said election commissioners, or appointed therefor by the court of common pleas of said city, whose duties and powers shall be the same as those of overseers of election in said city, under existing election laws applicable thereto.

Returns of the election shall be made in said city as in the case of an election for Governor, but a triplicate general return for said city shall be made out and forwarded to the President of the Convention, at Harrisburg, as is hereinafter provided in case of county returns.

IX. In each of the counties of the Commonwealth (except Philadelphia) returns of the election shall be made as in the case of an election for Governor, but the return judges in each county shall make out a triplicate county return, and transmit the same within five days after the election to the President of this Convention at Harrisburg.

THE SCHEDULE.

Mr. AINEY. I move that we proceed to the second reading of the article reported by the Committee on Schedule.

The motion was agreed to; and the Convention proceeded to the consideration on second reading of the schedule.

The PRESIDENT. The first section of the schedule will be read.

The CLERK read as follows:

That no inconvenience may arise from the changes in the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared, that:

SECTION I. This Constitution (or such article or articles and sections thereof as shall receive a majority of the votes polled, at the election appointed for the adoption or rejection thereof,) shall take effect and

go into operation on the first day of January, 1874, for all purposes not otherwise provided in said Constitution.

Mr. BUCKALEW. This section with the exception of the date is simply and plainly unnecessary. In the first place the event of the Constitution receiving a majority vote is provided for in the Convention act, and in the next place it will be provided for in detail in the ordinance of submission. Therefore, I propose that this section be made to read: "This Constitution in case of its adoption by the people, shall take effect on the first of January, 1874."

The PRESIDENT. The question is on the amendment of the delegate from Columbia.

Mr. ARMSTRONG. I would strike out "in case of its adoption," and say "if this Constitution is adopted."

Mr. BUCKALEW. Very well.

Mr. LITTLETON. The assumption on which this section is based is that the Constitution will be submitted some time in December. I am opposed to that. I think that will not give sufficient time for the people of this State to properly consider the different provisions of the Constitution. After we have taken nearly a year to arrive at a conclusion so as to submit the Constitution in a body to the people, we certainly should give them more than thirty days to consider whether or not it is wise for them to adopt it.

Another and a very strong objection to the election being in December is that it will bring it in the dead of winter, when people will not take the trouble, unless in cases of strong political excitement, to go to the polls and vote. I think it will be very unfortunate for the Constitution if it should be submitted at that time, as very few of the people of the State will then give any attention to it, and those who are opposed to our work will have a much less difficult task to defeat our Constitution. For that reason and the other reasons I have named, I move to amend the amendment that it shall take effect on the first day of January, 1875, so that if the majority of the Convention are of that opinion, we can submit the Constitution at the general election in October next, when the largest number of people will vote.

I wish simply to refer to the debate the other evening, when it was attempted to offer as an amendment to the schedule that we should vote for a Lieutenant Governor and some other State officers.

That was intended as an inducement to bring out the people to vote. If we do submit the Constitution next December we should adopt the amendment to have these officers voted for, because then there will be sufficient interest in the result to bring the people to the polls. Otherwise, in my judgment, if you submit it speedily, without any inducement at all, you will have a very slim vote and perhaps a rejection of your Constitution.

Mr. D. W. PATTERSON. I merely want to say briefly and for all time as regards the date fixed for putting the Constitution into effect, that I had designed moving the amendment which the delegate from Philadelphia has suggested, merely to ascertain the sentiment of this Convention as to the time when we shall place our work before the people for ratification. I want to say here that I am opposed to a special election upon this subject, because I believe it will be fatal to our Constitution. I would prefer much rather that it should be voted on at the general election in October, 1874, and hence I will vote for this amendment of the gentleman from Philadelphia to make it take effect on the first of January, 1875. I believe that unless we do so and give the people opportunity to read it and reflect upon it, our work will not be adopted.

I simply rose, however, to say to the House that I shall vote for the amendment of the gentleman from Philadelphia for the reason given, and I shall vote against any time that may be fixed to put the Constitution before the people at a special election, because I believe it will prove fatal to the Constitution.

The PRESIDENT. The question is on the amendment of the gentleman from Philadelphia to the amendment of the gentleman from Columbia, that the new Constitution, if adopted, go into effect on the first of January, 1875. Those who are in favor of the amendment will say "aye." ["Aye."] Those that are not in favor will say "no." ["No." "No." "No."] It appears not to be agreed to.

Mr. D. W. PATTERSON. I call for the yeas and nays.

MANY DELEGATES. No. No.

Mr. D. W. PATTERSON. Yes; I call for the yeas and nays. I want to go on the record.

The PRESIDENT. The Clerk will call the names of delegates.

Mr. NEWLIN. The call is not seconded.

Mr. LITTLETON. I will second the call.

MANY DELEGATES. Withdraw the second.

The PRESIDENT. The Clerk will call the roll.

Mr. LITTLETON. At the request of several gentlemen I withdraw my second to the call for the yeas and nays.

The PRESIDENT. The second to the call is withdrawn. Is there any other second? The Chair hears none and will decide the amendment to the amendment rejected. The question recurs on the amendment of the gentleman from Columbia.

The amendment was agreed to.

Mr. DARLINGTON. I move to strike out the words "in said Constitution" at the end of the section, and insert the word "therein," which will simply avoid tautology. The section will then read :

"This Constitution, if adopted, shall take effect on the first day of January, 1874, for all purposes not otherwise provided therein."

The amendment was agreed to.

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

The section as amended was agreed to.

The PRESIDENT. The next section will be read.

The CLERK read as follows :

SECTION 2. All laws in force in this Commonwealth at the time of the adoption of this Constitution, or any part thereof, not inconsistent therewith, and all rights, actions, prosecutions and contracts shall continue and remain in force and effect until altered or repealed by the General Assembly.

Mr. BUCKALEW. I move to amend by striking out in the second line the words "or any part thereof." The words are of course unnecessary. Whatever is adopted will of course be constitutional.

Mr. ARMSTRONG. I would like some one to explain the value of this section. I do not know what it is for. As a matter of course the laws will continue which are not repealed. If they are repealed by the Constitution, that is the end of them. If they are not repealed they continue in force. I see no value in the section, and I wish some one would state why it should be adopted.

Mr. HALL. I would also like to know how rights, actions, prosecutions and contracts can be altered or repealed by the General Assembly.

Mr. ARMSTRONG. I move to strike out the section.

Mr. BIDDLE. I am in doubt about that, because I find in the schedule to the amendments of 1838, a section almost in the words of this section. If gentlemen will turn to page 67 of Smull's Legislative Hand-Book, they will find at the bottom of the page the section in that schedule. There were very eminent lawyers in that Convention, some of whom are now here, and I would rather conclude that if they thought it necessary to have a section like this in the schedule of 1838, there must have been some good reason for it. I will read the section they then adopted.

"All the laws of the Commonwealth, in force at the time when the said alterations and amendments in the said Constitution shall take effect, and not inconsistent therewith, and all rights, actions, prosecutions, claims and contracts, as well of individuals as of bodies corporate, shall continue as if the said alterations and amendments had not been made."

I do not pretend that if this were a new question the section would be necessary, but I have faith enough in the work of these very eminent men to feel sufficient doubt whether the section ought to be omitted here. They must have had a reason for it.

Mr. BUCKALEW. The circumstances are changed.

Mr. BIDDLE. The gentleman from Columbia says that circumstances are changed. No! They have not changed so far as this point is concerned. We are doing what those gentlemen did. We are changing a Constitution as they were. They thought it wise to provide for the transition state, and I see no reason why we should vote down this section.

Mr. WOODWARD. As the article on schedule of the Constitution of 1838 has been referred to, allow me to say that I was the chairman of the Committee on Schedule in that Convention, and drew that instrument, and therefore much importance is not to be attached to it in this Convention. [Laughter.] The only reason that I know why this section was adopted, was from an abundance of caution. I do not know that the Committee on Schedule then had any special case in view when that section was drawn, nor do I know that any case has ever arisen in the course of time which made that section necessary. But that Convention of 1838 was a very conservative body, and they were fearful that some question might arise, and the section was inserted

to guard against possible evils. That was the whole of it, so far as I know.

Mr. S. A. PURVIANCE. Do you think it should be continued?

Mr. WOODWARD. I am asked to say whether it should be continued. I do not know why the same conservatism that governed the Convention of 1838 should not govern us. I cannot conceive what causes will arise in Pennsylvania. My belief is that it was wise to insert it in the Constitution of 1837. It did no harm, and I think it will be wise to continue it in this Constitution, because should we strike it out and a case arise, it certainly would subject us to trouble.

Mr. D. W. PATTERSON. I was going to say that the section contained almost the words of the section of the schedule of 1838 and hence we introduced it here. Some of our delegates on this floor talk as if they were not acquainted with the Constitution of 1838 or else had grown so exceedingly wise, that we were wiser than our fathers.

Mr. HALL. I would like to ask the chairman of the Committee on Schedule how it is with reference to the last clause that implies that the Legislature can alter or repeal rights, actions, prosecutions and contracts. Was that in the schedule of 1838, and what does that mean?

Mr. D. W. PATTERSON. That was put in by the Convention and was not in the original report. This is second reading, mind you, and I am not responsible for the clause. It was put in in committee of the whole. I think, however, with reference to the section, that we ought to be conservative enough to keep it in the present Constitution, in the general shape in which it was presented.

Mr. ARMSTRONG. I do not think that mere conservatism is a sufficient reason for putting this section into the Constitution, when the united judgment of this House fails to discover a reason for it. Neither the learned chief justice nor any lawyer on this floor can conceive of a case to which it would apply. We can carry that kind of conservatism too far. If we possibly can conceive of a case in which it would be of value, I should be in favor of putting it into our Constitution; but I do not like to perpetuate the mistakes of the old Convention. If there was a reason for it then I would not object; but there is no possible reason for it now.

Mr. WHERRY. The gentleman from Lycoming forgets that all the citizens of this State who are to vote on this Consti-

tution are not lawyers. There is to my mind a very full and sufficient reason for the adoption of this section in the fact that it is explanatory to the people of the State. It will relieve their minds from any anxiety they may have with reference to the effect of these amendments which we have adopted. That, it strikes me, is a good solid reason why this section should remain. The criticism of the gentleman from Elk (Mr. Hall) is correct. The phraseology is imperfect. It is not as good a section as that in the Constitution of 1838.

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

The amendment was agreed to.

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

Mr. WHERRY. I now move to amend, by striking out all after the word "continue" in the third line, and inserting:

"As if the said alterations had not been made."

That is the precise language of the Constitution of 1837 and 1838.

Mr. DALLAS. There are no alterations referred to in the section, and "said alterations" will have no meaning.

Mr. HAY. Change the phraseology of the section, and let it read:

"As if this Constitution had not been adopted."

Mr. WHERRY. That will do. I accept that change.

The PRESIDENT. The question is on the amendment of the gentleman from Cumberland (Mr. Wherry.)

The amendment was agreed to.

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

Mr. BIDDLE. Now, let it be read.

The CLERK read the section as amended, as follows:

"All laws in force in this Commonwealth at the time of the adoption of this Constitution, not inconsistent therewith, and all rights, actions, prosecutions and contracts shall continue as if this Constitution had not been adopted."

The section as amended was agreed to.

The PRESIDENT. The third section will be read.

The CLERK read as follows:

SECTION 3. The General Assembly of 1874 shall divide the State into fifty senatorial districts, as provided in this article on the Legislature, numbered consecutively, and Senators shall be elected first therein at the general election of 1874,

from even numbered districts to serve two years, and from odd numbered districts to serve four years.

Mr. HARRY WHITE. I move to strike out the section and insert as follows:

"At the general elections in the years 1874 and 1875, Senators shall be elected in all districts where there shall be a vacancy. Those elected in 1874 shall serve for two years, and those elected in 1875 shall serve for one year. Senators now elected and those whose terms are unexpired, shall represent the districts in which they may reside until the end of the time for which they were elected."

The PRESIDENT. The question is on the amendment of the delegate from Indiana.

Mr. BUCKALEW. I hope this amendment will not be adopted until the Convention understands its effect. I supposed the gentleman from Indiana would explain how his amendment would work. I regard it as impracticable.

Mr. HARRY WHITE. I will explain. It will be observed that this amendment puts into operation our new legislative plan immediately. The Legislature of 1874 we have already provided, to wit the Legislature of next January, shall apportion the State into senatorial districts. That Legislature will make, of course, fifty new senatorial districts. At the election of 1874, which will be in November, if this Constitution be adopted, there will be twenty-two Senators in office who are Senators to-day, the eleven elected in 1872 and the eleven elected now, who have not yet assumed the functions of their office.

Now, it is provided by this amendment that in all those districts where there is a vacancy there shall be an election of Senators for two years, and that in 1875 there shall be an election in all districts in which there is a vacancy to serve for one year. What will be the effect of it? The effect of it is to elect twenty-eight Senators in November, 1874, whose terms will go out in 1876, together with the Senators who were elected this fall, and furthermore in 1875 we shall elect eleven Senators who will continue in office for one year to go out with the Senators elected last year.

Then the additional clause of the amendment provides that Senators now elected and those whose terms are unexpired shall be Senators during the term for which they were elected. Then, of course, if this be adopted, you will follow it with an amendment that at the fall

election of 1876 Senators shall be elected from the even numbered districts for two years and from the odd numbered districts for four years, or *vice versa*, just as you please. Then we have all the machinery in full operation.

This plan puts in operation our Constitution immediately at the first election of 1874, and gives every Senator his term, and it does no injustice to any one. It may be complained, doubtless it will be complained by somebody here, that this will be impracticable, because you cannot make Senators now elected to act as the Senators from the new districts to which they may be assigned. That is not at all impracticable; on the contrary, it is entirely practicable. What makes the Senator? A district of 75,425 is a full ratio under this Constitution. Any county with 50,540 is entitled to a Senator, and any county with 70,425, which is a full ratio, and three-fifths of another ratio, to wit: 42,255, which aggregates 112,680, is entitled to two Senators, and so on.

This plan is perfectly harmonious, will not conflict with any gentleman now in office, and, if I were to submit a demonstration, I could do so with great pleasure. Look at Erie and Warren. That is a separate district. Senator Cutler was elected last year. He can serve his term out. The county of Crawford is a separate senatorial district now and will be under the new plan. George K. Anderson was elected this year. He will serve out his term of office and there will be no conflict there. Then we come down to the Venango region. The only Senator from that region—Senator M'Kinley—lives in Lawrence county, and he was elected in the fall of 1872. There is no trouble there. Mercer and Lawrence go together, or Mercer and Venango; some combination of that kind will be made. Then we come to the Beaver region. Beaver and Butler may be put together. Mr. Rutan was elected last year. He will serve his term out. There is no conflict there. We approach the county of Allegheny. It may be remarked that it will be impossible to apportion Allegheny. Not at all. Senator Graham and Senator Humphreys were elected in the fall of 1871. Their terms expire in the fall of 1874, and there will be but one Senator now, who is Senator Anderson, who was elected this year, and we save his term, and, of course, Allegheny may be divided, if the Legislature sees fit, into separate districts, and make the whole thing harmonious and

elect the other additional Senators from that county in the fall of 1874. Then we approach Washington. Washington may be a separate district. I do not know how that is. Washington, Greene and Fayette may be put together. I do not know whether that could be done or not; but, at all events, Washington may be made a district to meet the necessities of that case, and Greene and Fayette may be put together. Senator Playford was elected last year. He will serve his term out.

You approach the district of Armstrong and Clarion, and that retains Senator Maclay, who was elected last year. He can represent that district during his term. You approach then the district to which Indiana has been attached. The Senator who represents the district in which is Indiana will have his term expire in 1874, and a Senator can be elected there in 1874. Westmoreland county would be made a separate district. She will elect a Senator. So you go on up to M'Kean, Potter and Tioga. Senator Strang represents that district. You will not run foul of anybody there. In the Clearfield region a new combination may be made. Senator Wallace, who represents that district now, will not be interfered with. A new combination will be made there, and a new Senator elected. In the Union district, in which Senator Dill has just been elected, there is no difficulty in making a new combination, and he will be saved there. Then we approach the Huntingdon region. There is no difficulty about making a combination there to save Senator Waream, who has just been elected from the district of which Huntingdon is a constituent part. In the Cambria district a Senator was elected last year. His term does not expire until 1875, and it can be filled then by a Senator elected that year. So with Cumberland and Franklin; Senator Weakley's term expires in the fall of 1874. There is no difficulty about making a new combination there. So in York and Adams, whose Senator is Mr. M'Sherry. We shall not run foul of anybody there. In the Montour and Columbia region, Senator Chalfant was elected last year. There will be no difficulty about making a combination in that region. Luzerne county will be entitled to two Senators. The term of Senator Collins expires in the fall of 1874; so that county will not have another Senator until the fall election of 1874. Up in the Bradford region, Senator Fitch's term expires next year. A

new combination can be made there. In Monroe and Pike Senator Rowland was elected last year and you will not interfere with him. In the region of Lehigh and Carbon, Senator Albright has just been elected. Lehigh can be made a separate district. Northampton will be entitled to a Senator under the new plan. Bucks will be a separate senatorial district, and the term of her Senator just elected can be retained. So also in Chester. In the Chester district Senator Cooper has just been elected, and he will represent the county of Delaware.

So in Lancaster county there is but one Senator now, and she will be entitled to two. Then the city of Philadelphia will have to be districted. There are but two Senators elected from Philadelphia now in office whose terms will not be out by the year 1874—Senator Laumon, who has just been elected in the upper part of the city towards the Delaware, and Senator Alexander who was elected last year, who lives away down in the first district. Senator M'Clure's term and Senator Davis' term will expire next year, and there will be no conflict there.

Thus, Mr. President, we go all over the State on the plan which I have suggested here, and have a harmonious, homogeneous system, and will not do any injustice to anybody. I protest that if we adopt the principle of turning out of office two-thirds of the Senators, as the section which is just now before us and which was adopted in committee of the whole does, you will turn against the adoption of the Constitution these men, besides doing great injustice to twenty-two active gentlemen in different parts of the Commonwealth when the Convention can as well do justice. I hope the amendment will prevail.

Mr. BUCKALEW. It is a sufficient objection to this complicated plan now presented by the gentleman from Indiana that it is offered here for the first time, that it has not been entertained at all by the regular committee on the Legislature or by the select committee to which this subject was referred. The gentleman from Indiana has gone over the State and has talked about combinations. Now I submit whether a single gentleman of the Convention comprehends the statement he has made; I certainly do not; but there are certain things that I can understand. I can see that this proposition of the gentleman from Indiana would introduce enormous confusion and altogether

defeat the arrangement reported by the committee; and I can see another thing, and that is that his combinations and manipulations of districts, providing what districts shall elect and what shall not, will give an opportunity in the next Legislature to make a most infamous bill—districts made with reference to retaining certain men in the Senate and bringing new men in from the counties which you divide. It will all be arranged with reference to the composition of the Senate for years to come. That is the practical effect of it, whatever else happens, and that of itself is a sufficient objection to the plan if we could understand it, and if it could work with the plan which has been reported by the committee.

Now, what is that plan? That under the provisions of the sixteenth section of the article on the Legislature, single districts shall be made throughout the Commonwealth, that the Legislature shall have the map of the State clear and clean laid before them to make fair districts all through the State without reference to any individual interest, without reference to any existing terms, a clean, open sheet to write down fair districts. Then again, that counties with a ratio shall have one Senator, and those with a ratio and three-fifths shall have a second, and that the counties shall be fairly divided where they have to be, without reference to the member that is in or the member that is to come in.

Now, sir, we can do either one of these things reasonably, and only one of three things. We can provide as was done in committee of the whole, that all the districts shall be filled up by election in the fall of 1874; the members elected from even numbered districts to serve for two years, and from odd numbered districts for four years. That would cut short the terms of two-thirds of the Senate. Or we can go forward to 1875, which was the first plan reported by the committee and the one I was strongly in favor of—go forward to the year 1875 and make the same arrangement of districts to be filled that year. Then you stop off the terms of only one-third of the Senators, and that only for one year, and you stop off the term of no Senator who was not nominated and elected before our new plan was before the people, published all over the State, and understood by the candidates and voters when these men were elected. I am in favor of that. It is bringing the Constitution, in this respect, in force in

1875. Or we can go even to 1876 and elect for two and four year terms in alternate districts, and the new plan will work, and nobody's term will be stopped off.

If you adopt the principle of not cutting off any term at all, you ought to go to the year 1876. So that here are three different dates which we have to choose between, retaining the plan which the committee have reported, which they have understood, which everybody understands, and which will work fairly and properly. Take either one of these dates that the Convention shall fix. For my part I will vote to change this section if the present amendment is rejected and elect in the fall on the next year. I prefer the fall of 1875; or if the Convention choose to go forward to 1876 so be it; but let us retain that simple, plain-working and just plan which the committee have reported, and start the whole new Senate at one time. Now, suppose two Senators fall into one district here in the city of Philadelphia, which is just as likely to happen as not. Suppose even that there may be a possibility of three Senators falling into one district where you unite three or four counties, and then these terms fall out from year to year, one-third every year, it will not run with the new arrangement of four year terms, and you will have to make arrangements for splicing out the terms so that it will work. There is no end to the difficulties. Let us reject the amendment and then choose between 1874, 1875 and 1876. I will agree to either, although I prefer 1875.

Mr. LILLY. I think to elect the two Houses in 1876 would be the only time that could be settled properly. Senators who have been elected this year went into the canvass expecting to serve for three years and the people elected them for three years. I do not believe we should do anything to shorten their terms. But we can end the term of those who will go before the people next year, and say they shall be elected for two years. This they will understand before they are elected.

Let the new Senate be elected in 1876, and start fresh from that time on. I think this is the only proper thing to be done, and if you do anything else you will array these Senators against the Constitution, because many of them, under our present system of election, it is possible many have used money. I have no doubt of it. Now, why turn them out of office? There is no man in the Senate or elected to the Senate this year who was

elected by my vote; but notwithstanding I have a strong view on the subject. I am in a district represented by a gentleman of opposite politics, and I have every reason to believe that he expended money to be elected this year. I should like him to serve out his term. I do not purpose to interfere with him.

Mr. DARLINGTON. I do not think we need have any apprehension about the hostility of the members of the Senate who are to go out of office. They can be candidates for re-election, and we shall not only have their influence as candidates for re-election, but the influence of a great many other candidates for election, and thus we shall increase the vote for the Constitution by shaving them off even in 1874, and we can start fair then.

Mr. MINOR. It seems to me that the gentleman from Chester is quite mistaken. He seems to argue that a candidate who has once been elected feels entirely free the year afterwards to enter into the canvass and try to be elected over again; that he will take much pleasure in having the opportunity to be before the people time and again. I take it, the reverse of that is the practical fact. A Senator who has been through a canvass and has been elected is in his position; he is placed there for a certain number of years; the people have done it, and he has consented to it. I take it, it is no pleasure to him to be told that he must be turned out at the end of a year, although he was elected for three years, for the sake of having a chance of trying it over again and being elected or defeated as the case may be. The fact is directly the other way. Not one of us would want to run as a candidate every year or two when our term was three years. No man wishes to do it.

Then instead of securing the support of these men by turning them out of office, we are arraying their hostility directly against our work. By the present section we cut off two years from the terms of eleven Senators and one year from the terms of eleven more. This will certainly be against their feelings, and probably, or possibly at all events, their interests. Certainly they would not be willing to run the risk of another election, and they would oppose rather than favor the instrument which contained such a provision. I say let us disturb no man except where we must and let us make everything work in harmony wherever we can. I am in favor of the amendment.

The PRESIDENT. The question is on the amendment of the delegate from Indiana (Mr. Harry White.)

Mr. HARRY WHITE. On that question I call for the yeas and nays.

Mr. NEWLIN. I second the call.

The yeas and nays were taken and resulted as follow:

YEAS.

Messrs. Addicks, Ainey, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Beebe, Bowman, Broomall, Calvin, Carter, Cochran, Collins, Cronmiller, Curry, Curtin, Davis, Edwards, Ewing, Finney, Funck, Green, Horton, Howard, Landis, Lawrence, Littleton, MacConnell, M'Camant, M'Culloch, M'Michael, Mann, Mantor, Minor, Newlin, Niles, Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Ross, Runk, Russell, Stanton, Struthers, White, David N. White, Harry, White, J. W. F. and Walker, *President*—54.

NAYS.

Messrs. Achenbach, Alricks, Barr, Biddle, Black, Boyd, Brodhead, Brown, Buckalew, Campbell, Church, Clark, Corbett, Dallas, Darlington, De France, Dodd, Dunning, Elliott, Ellis, Gibson, Gilpin, Guthrie, Hall, Hay, Hemphill, Hunsicker, Kaine, Lamberton, Lilly, Loug, M'Clean, M'Murray, Mott, Palmer, G. W., Patton, Purman, Read, John R., Smith, H. G., Smith, Henry W., Smith, Wm. H., Van Reed, Wetherill, J. M., Wherry, Woodward, Worrell and Wright—47.

So the amendment was agreed to.

ABSENT.—Messrs. Baer, Barclay, Bardsley, Bartholomew, Bigler, Bullitt, Carey, Cassidy, Corson, Craig, Cuyler, Fell, Fulton, Hanna, Harvey, Hazzard, Heverin, Knight, Lear, MacVeagh, Metzger, Mitchell, Parsons, Porter, Pughe, Rooke, Sharpe, Simpson, Stewart, Temple, Turrell and Wetherill, John Price—33.

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

The section as amended was agreed to.

The CLERK read the next section as follows:

SECTION 4. Senators whose terms shall be unexpired in 1874 shall continue Senators for the districts in which they may reside until the first day of December of that year.

Mr. BROOMALL. Will not that section now require attention?

Mr. HARRY WHITE. It should be voted down. It is of no use now. It is supplied by the section just adopted.

The PRESIDENT. The question is on the section.

The section was rejected.

The CLERK read the next section as follows:

SECTION 5. The first election of Governor under this Constitution shall be at the general election of 1875, when a Governor shall be elected for three years, and the term of the Governor elected in 1878 and those thereafter elected shall be for four years, according to the provisions of this Constitution.

Mr. HARRY WHITE. I do not desire to interfere with that section, but I wish to offer an amendment to precede it. I move to amend by inserting what I send to the Chair, to precede the section just read.

The PRESIDENT. The Chair will withdraw the fifth section at present and receive the amendment. It will be read.

The CLERK read as follows:

"At the general election of 1876 Senators shall be elected from even numbered districts to serve for two years and from odd numbered districts to serve for four years."

Mr. HARRY WHITE. The object of that is apparent. At that time the entire Senate will be vacant and we can start it anew.

The amendment was agreed to.

The PRESIDENT. The question now is on the fifth section, which has been read.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 6. At the general election in 1874, a Lieutenant Governor shall be elected according to the provisions of this Constitution.

Mr. COCHRAN. I move to amend by striking out the section and inserting the following:

"The Lieutenant Governor and Secretary of Internal Affairs shall be elected on the same day on which the qualified electors of this Commonwealth shall vote on the question of adopting this Constitution and serve for four years from the third Tuesday in January, A. D. 1875, should this Constitution be adopted by a majority of the votes given on that question."

Mr. President, I do not wish to repeat here to-day what I said the night before last, when this question was under consideration in committee of the whole. I only regret that all the gentlemen who are present here now were not present on that occasion. I will state briefly the object which I have in offering this amendment, and it will necessarily be a repetition so far as I shall go.

It is to endeavor to bring something before the people of a practical nature which will induce the polling of a full vote, or as nearly a full vote as can be upon the question of the adoption of the amendments to the Constitution. I believe myself sincerely that unless something more than the mere abstract question of the adoption or rejection of this Constitution be submitted to the people in the month of December, an unusual month, but one that has been determined upon by this Convention—it will be impossible to secure a general vote, and that adverse circumstances on a small vote may be brought to bear so as to defeat the entire instrument. I have referred already to the fact that when there were pending before the people on the same day the question of an election for Governor and the question of the amendments to the Constitution of 1838, while the vote for Governor was in round thousands two hundred and fifty, the vote on the constitutional amendments was only two hundred and twenty-five; so that there was ten per cent. of the entire vote polled at that time for Governor which was not polled upon the amendments to the Constitution. I cite this to prove the impossibility of attracting popular attention to a mere abstract question of this kind. Why, sir, I undertake to say, as I have said before, that the question of the election of a sheriff in any county of this Commonwealth would be in itself by far more apt to bring out a full vote of the people than the question of the adoption or rejection of a new Constitution or amendments to the Constitution.

Mr. LITTLETON. Would it not be better then to select the general election in the fall or spring as the time for voting on the adoption of the Constitution?

Mr. COCHRAN. If we were at the time of year and under the proper circumstances, of course it would be; but it is the purpose of this Convention, which its members have declared by their votes, that this Constitution shall be voted upon before, and shall go into operation upon

the first of January, 1874; and I accept that decision of the Convention. I think myself that this vote ought to be taken in December, but I am anxious to secure a full and fair vote of the people, and it is with that view, and that view alone, that I offer this proposition.

I confess that there are some objections to it, objections which have been mentioned heretofore. For instance, one objection is that possibly there might not be time enough to bring about the necessary arrangements for the election of these candidates, but I think that in seven or eight weeks it can be done.

Another objection is, and it is one which we cannot control, that instead of calling new conventions, the chairmen of the State committees of the respective political parties may think proper to reassemble the old conventions whose functions have expired. I hope, however, that that would not be the effect, because I think that would be flying in the face of all propriety.

Now, sir, I want political parties organized to get out the votes for their candidates. I believe that if that is done, it will bring out the vote, and I do not believe that the organization of political parties will have one iota of appreciable effect, in a partisan direction, upon the vote on the Constitution itself. It had not on a former occasion, as I showed in my remarks night before last. While in the county of York, in which I reside, in 1838, Governor Porter had about nine hundred majority, the amendments to the Constitution were in a minority of four thousand, because the public sentiment of the county was opposed to the amendments to the Constitution. The organizing of political parties to elect candidates will have no political effect upon the action which shall take place in regard to the Constitution, but it will tend to produce a full vote and a fair expression of public sentiment.

I shall not occupy any longer time on this subject. If it does not commend itself to the judgment of the members of this body, it will be no affront to me that it be rejected. If it does commend itself to their sense of propriety and of right, I hope it will be adopted, because I think it will have the effect which I have endeavored to portray.

Mr. S. A. PURVIANCE. If this Convention should fix March, the time of holding the spring elections, as the time of voting upon the Constitution, then I should be

opposed to the proposition of the gentleman from York. But I have from the beginning feared and expressed my fear that if this Constitution is submitted to the people at a special election there is danger of its rejection for the want of a full vote, and on that account I steadily opposed the adjournment in the middle of summer, because I felt that by the continuance of our sessions we might have submitted the Constitution to the people at the October election. It seems though, as the gentleman from York says, that the majority of this Convention have determined upon fixing the election in the month of December. Therefore I am in favor of the proposition. Look at the workings of it now. I would add to the proposition the election of the two judges of the Supreme Court, and although they are to be elected by what is called limited suffrage, it will nevertheless bring out the parties from all portions of the State to make their respective nominations, and when they have fixed upon them the friends of nominees for the position of judges of the Supreme Court will become enlisted in their favor and will be anxious to see these judges elected, and they will support the Constitution, because, as a matter of course, they will know that if the Constitution is defeated their friends cannot enjoy the office. Again, the election of Lieutenant Governor will bring out an immense vote. So will the election of Secretary of Internal Affairs, an officer, by the by, of very great importance.

Mr. WOODWARD. Will the gentleman from Allegheny allow me to ask him a question?

Mr. S. A. PURVIANCE. Certainly.

Mr. WOODWARD. I ask the gentleman how he proposes to elect officers before the Constitution that provides for those officers has been adopted.

Mr. S. A. PURVIANCE. I will answer the gentleman. The Constitution provides for these officers upon the ratification of the Constitution. Their position is contingent upon the adoption of our work. That has been done in Illinois and in Western Virginia, and why it cannot be done here I cannot see. If the Constitution is defeated as a matter of course these officers are not elected; but if the Constitution is ratified, they are elected. We as a sovereign body prescribe the manner of election and we provide that there shall be such officers elected at that election. It all depends upon that,

and if this election is fixed in March I do not think there is any necessity to call out a vote by putting these officers forward as candidates, because it is a fact notorious to every member of the Convention that the whole people come out at the spring elections for the purpose of electing their supervisors and other township officers.

Mr. WOODWARD. I have no particular objection to the proposition of my friend from York, except that it seems to me a little incongruous for the people of Pennsylvania to elect a Lieutenant Governor when they never had a Lieutenant Governor, and a Secretary of Internal Affairs when they never had a Secretary of Internal Affairs. There is no law in existence which contemplates such officers at all. Voters might very well ask, "What does all this ceremony mean? We are voting for officers that are not provided for either by our existing Constitution or by the laws of the country," and I would not know how to answer a voter who would ask me that question. As to this proposition to elect officers in anticipation, it is well enough to elect officers who are provided for by the Constitution and the laws, without electing others who are not provided for.

But I did not rise to oppose the proposition. I rose to say this, that if this Constitution is to be submitted to the people at any time in December, then the proposition made some time ago by the gentleman from Indiana for the appointment of a committee to superintend the election and bring out a full vote becomes more important than if the Constitution is to be submitted at a more remote date. Whenever it is submitted I hold that the appointment of such a committee on the part of this body is of prime importance. We have been nearly a year preparing this Constitution. We hope we have made a better one than the old one. We are about to submit it to the people, and it will be assailed from all directions. All manner of false and true objections will be urged against it. Who is to answer them? What is everybody's business is attended to by nobody. Does not this Convention owe it to itself to have a representative in the field, and to answer the multitudinous objections that will be urged against our work? I feel that we owe it to ourselves as well as the public to be so represented, and how can we be represented unless we appoint a committee, carefully

selected? I have no objection to submitting the selection of that committee to you, Mr. Chairman, or if other gentlemen prefer it to have them elected by the Convention, I have no objection to that, but the committee should be carefully selected, and they should be charged with the duty of seeing that tickets are distributed in every election precinct of Pennsylvania, and there are a very great many of them, and some very remote ones, and without some labor the tickets will never get there.

This committee should see that tickets are distributed in every precinct in Pennsylvania in favor of this Constitution. They should see that the newspapers of the country contain explanations of the scope and meaning of these various amendments, that the people may inform themselves by their own firesides at home as to what we have done. They should see that the arguments of the objectors have been answered, if indeed they can be. They should, in a word, superintend the submission of this instrument to the people, and it is all the more important that we should have such a committee if the Constitution is to be submitted at an early day. The gentleman from York has alluded to the great discrepancy between the vote in his county for Governor in 1838 and the vote by which the amendments to that Constitution were adopted. I have obtained from the Secretary of State a detailed and connected statement of these votes for the purpose of contrasting them, for the contrast is very instructive in many respects. The gentleman tells us what is true, that his county of York, while it cast a majority for Governor Porter, the Democratic candidate for that year, of about one thousand votes, cast four thousand and odd majority against the amendments to the Constitution; and if you will look over the counties you will find that Philadelphia and other southern counties did the same thing. But for the large majorities that were given in the northeastern counties of the State the instrument would have been defeated. The returns of the election show that in the county of Pike, which is represented here by my friend Mr. Mott, there were only some eighty-one votes cast against the Constitution. Almost the whole people voted for it. In the county of Wayne it had a large majority, and in Luzerne and Bradford, ar counties in that vicinity, there were large majorities for it. All that range of cou

ties voted strongly for the amendments and they were the counties that carried the work of the Convention.

Mr. S. A. PURVIANCE. Allegheny also.

Mr. WOODWARD. I believe the gentleman's county did vote in favor of the adoption of those amendments, but the weight of the vote in favor of the amendments was in the northeastern part of the State.

Now, if anybody wants to know how that vote was brought about I would like to tell them. The delegates of that section constituted themselves a committee to inform the people of what had been done in the Convention. They had a series of articles written and published in the newspapers and they gave the people such information that their vote was overwhelmingly in favor of our amendments. They had no authority from the Convention or anybody else. They excoogitated this matter out of their own brains and they saved the Constitution.

Now, unless something of that kind be done this Constitution will not be saved. The thing to be done is for this body not to leave it to the delegations to act upon their own unauthorized motion, but for this body to constitute a committee with full powers to act. For one, I would open the Treasury of the Commonwealth to that committee, and allow them to defray their expenses out of the Treasury. Suppose they have to send messengers to the remote parts of a county with tickets. Somebody has to pay them for going; I would allow them to have their expenses paid by the State. I would not pay the committee anything for their services, but I would give them control of a fund, to let them send messengers to the different remote parts of the counties, to enable the people to have tickets, and it would result, I think, in a large majority for our work. That is what I rose to say, and if the resolution of the gentleman from Indiana has not been finally acted upon, as it has not according to my recollection—

Mr. LANDIS. It has.

Mr. WOODWARD. I think not.

Mr. LANDIS. It was voted down.

Mr. WOODWARD. Well, I hope that resolution, or one similar to it, will be adopted.

Mr. HARRY WHITE. I beg pardon of the delegate from Blair. My resolution was merely postponed.

Mr. CARTER. As a friend of this new Constitution, and as one who would not have the labor of a year lost, I warmly

favor the motion of the gentleman from York. The gentleman from Philadelphia (Mr. Woodward) stated an axiom that what is everybody's business is nobody's, and in support of the view that there should be a committee to distribute tickets, I hold that that proposition is a good and proper application of that very principle. If our work is defeated before the people it will be because the people will not turn out for the above reason, while those who may have private reasons for opposing it will. The Constitution is everybody's business in general and nobody's in particular. It seems like voting on an abstraction, and I submit that if we adopt the proposition of the gentleman from York we will have enlisted then a set of men who will be instrumental in bringing the people to the polls. What we want is to have the people at the polls and to have this matter laid before them, and if this is done I doubt not but the Constitution will pass by a large majority; but I do dread that at that inclement season of the year people will not come out. I was rejoiced to hear the distinguished gentleman announce that he was not opposed to this proposition. He only expressed a doubt of the propriety, perhaps, of electing officers in advance; but inasmuch as this has been done on former occasions and is not improper in itself, I do not see why it could not be done again when it would seem so necessary. I do dread to see the labor of this body exposed to the great peril of an election where there is not the individual interest which is alone called out by candidates. I do not wish to see it subjected to such a fearful contingency. If we have candidates, they have their political friends, and their party friends will act to some extent in the manner spoken of by the gentleman. They will see to the distribution of tickets for their political friends, and all the political machinery will be used. It seems to me that there can be no question but that it will operate in that way, and although the vote may be tolerably small it will be vastly larger than it will be without the proposition of the gentleman from York. There are too many good things in this Constitution to have it put in peril. The article on suffrage and elections, which is calculated to purge and keep pure the very fountain head of our government, which is calculated to remedy those evils which have brought foul disgrace on our elections in many parts of the State

should arouse every true Democrat and every true Republican to its support. But we have not the time to present all these things fully to the people. We must enlist this political element to come out in support of individual candidates. If we had time, I doubt not but that it could be done, and I take occasion here to say that I most warmly endorse the remarks of the distinguished gentleman from Philadelphia that we should all feel a personal responsibility resting upon us to labor so that our great work will not be in danger, and I hope that this thought will receive a favorable consideration.

Mr. J. R. READ. Mr. President: I am opposed to this proposition for what seem to me paramount reasons, and reasons that I do not believe can be controverted. We have had reported to us this morning an ordinance from the Committee on Election and Suffrage. That ordinance, to my mind, contains a great many excellent things. Among others, it provides how the new Constitution shall be submitted to the electors of Philadelphia. It provides for the appointment of a commission by this body, who shall be empowered to select the election officers who are to conduct the election in this city, in a manner, I trust, in which elections have not been conducted for many years.

Now, Mr. President, if we adopt the proposition offered by the gentleman from York, the effect of it is that the election officers, under our general laws, will be obliged to conduct the election for the office of Lieutenant Governor, because I take it that no officers authorized under this Constitution that we have adopted, or under any ordinance we may pass, would have any right to conduct an election for an officer named in the new Constitution. That being the case, we either have an illegal election or have two sets of election officers in each precinct in the city of Philadelphia, and in every county in this State. That I take to be entirely impracticable; and however much I may sympathize with the motives of the gentleman from York, (and I do agree with him when he says that it will be almost impossible to get out a large vote,) yet I take it that the objection I have stated is one which we cannot overcome. It would be difficult, nay almost impossible, for us to conduct an election in this city with two sets of election officers, and unwise if not unlawful for us to conduct an election in this city for Lieutenant Governor with

the election officers named in the ordinance.

Mr. BLACK. Why not?

Mr. J. R. READ. Simply for the reason that we have no right to do so. The present Constitution will remain in force until the new Constitution is adopted, and what right have we as a Convention to say that another set of election officers than these contemplated in the present Constitution and laws of the State shall conduct the election for the new officers? That, to my mind, is a reason why this amendment should not be adopted.

Mr. BOWMAN. Mr. President: The proposition of the gentleman from York to me is a very novel one. It is proposed that the two parties of the State shall assemble in Convention and nominate their respective candidates for Lieutenant Governor and for Secretary of Internal Affairs, and all this in advance of the adoption by the people of the Constitution we form here and now. Why, sir, the Constitution, if adopted, will create these two offices that have never existed in the State before. Would it not be enacting a most ridiculous farce for the political parties of this State to get together in Convention, nominate their candidates for their respective offices, go to the polls and cast their votes, and when the votes happen to be counted on the question whether the Constitution is adopted or rejected, it is almost overwhelmingly rejected by the people.

The argument is that it will be an inducement for the people to attend the election. I should like to have the gentleman from Lancaster inform this Convention, as he is so anxious that the Constitution should be adopted by the people, is he right sure, or is any gentleman here sure that by getting out a large vote you will not endanger the adoption of the Constitution?

Mr. CARTER. I answer, because I have faith in the people to act for themselves.

Mr. BOWMAN. So do I have faith in the people, but my faith in regard to this question is not much larger than a grain of mustard seed. My faith extends just this far, that every legal voter in the Commonwealth that is in favor of our work will go to the polls and vote for it, and those who are opposed to the Constitution, in whole or in part, will vote to reject the Constitution as a whole or the separate portions that may be submitted to them to which they are opposed.

I do not desire to take up the time of the Convention, but I would suggest that it might be as well for us as sensible men to wait until we catch the lion before we dispute about his skin. Our Constitution has not been adopted yet, it may not be; and to say now that a Lieutenant Governor shall be elected and a Secretary of Internal Affairs and, as some gentlemen say, two judges of the Supreme Court at this election, will be building the wagon so as to get the hind wheel ahead. Let us wait. Do not be in such a hurry about this matter. Give ample time for the people to understand our work. Let them reflect upon it, and they will select that part of it which they believe is right and ought to be adopted, and they will as sensible men step up to the polls and vote against that which they cannot approve. Let us do the same as we have provided here for the election of these officials and the contingency that this Constitution shall go into effect.

That is all I have to say on this question. It seems to me that we are acting prematurely in this matter, decidedly so, in undertaking to call the political parties together to make their nominations, elect the Lieutenant Governor and the Secretary of Internal Affairs when there are no such offices known to the law and may not be.

The PRESIDENT. The question is on the amendment of the delegate from York (Mr. Cochran.)

Mr. HARRY WHITE. I call for the yeas and nays.

Mr. COCHRAN. I second the call.

The yeas and nays were taken and resulted as follows:

Y E A S .

Messrs. Andrews, Bally, (Perry,) Baker, Beebe, Black, Calvin, Campbell, Carter, Cochran, Curry, Curtin, DeFrance, Dodd, Funck, Gibson, Gilpin, Guthrie, Hay, Horton, Howard, Landis, Long, Mann, Mantor, Minor, Mott, Palmer, G. W., Palmer, H. W., Purviance, Sam'l A., Reynolds, Russell, Struthers and White, Harry—33.

N A Y S .

Messrs. Achenbach, Addicks, Alricks, Armstrong, Bailey, (Huntingdon,) Bannan, Barr, Biddle, Bowman, Boyd, Broomall, Brown, Buckalew, Church, Collins, Corbett, Dallas, Darlington, Edwards, Elliott, Ellis, Ewing, Hall, Hanna, Kaine,

Lawrence, Lilly, Littleton, MacConnell, M'Clean, M'Michael, Niles, Patterson, D. W., Patterson, T. H. B., Purman, Purviance, John N., Read, John R., Reed, Andrew, Ross, Runk, Smith, Henry W., Smith, Wm. H., Wherry, White, David N., White, J. W. F., Woodward, Worrell and Walker, President—48.

So the amendment was not agreed to.

ABSENT.—Messrs. Ainey, Baer, Barclay, Bardsley Bartholomew, Bigler, Brodhead, Bullitt, Carey, Cassidy, Clark, Corson, Craig, Cronmiller, Cuyler, Davis, Dunning, Fell, Finney, Fulton, Green, Harvey, Hazzard, Hemphill, Heverin, Hunsicker, Knight, Lamberton, Lear, MacVeagh, M'Camant, M'Culloch, M'Murray, Metzger, Mitchell, Newlin, Parsons, Patton, Porter, Pughe, Rooke, Sharpe, Simpson, Smith, H. G., Stanton, Stewart, Temple, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price and Wright—52.

The PRESIDENT. The hour of three having arrived, the Convention takes a recess until seven o'clock this evening.

EVENING SESSION.

The Convention re-assembled at seven o'clock P. M.

AMENDMENT OF CORPORATION ARTICLE.

Mr. HUNSICKER. Before the Convention resumes the consideration of the schedule I desire to make a privileged motion. It will be seen by reference to article sixteen and the article on railroads and canals that there are two contradictory expressions used. For instance, the language of section two of the article on private corporations, as originally reported, reads as follows:

"The Legislature shall not remit the forfeiture of the charter of any corporation now existing, nor alter or amend the same for the benefit of such corporation, except upon condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution."

On motion of Mr. Dallas, of Philadelphia, after the word "same," in the second line, the following words were added: "Or pass any general or special law."

Now, in section twelve of the article on railroads and canals, we find:

No railroad, canal or other transportation company in existence at the time of the adoption of this article shall have the benefit of any legislation, by general or

special law, except on condition of the full acceptance of all the provisions of this article."

Now, what is my motion? My motion is to strike out the words which were inserted on motion of Mr. Dallas, and for that I ask unanimous consent. I want to take out the words "or pass any other general or special law."

Mr. ARMSTRONG. I observe that the gentleman from Philadelphia (Mr. Dallas) is not in his seat.

Mr. HUNSICKER. I gave him notice that I was going to make this application, and he said that the words should come out in one place or the other.

The PRESIDENT. The delegate from Montgomery asks unanimous consent to make the amendment he has indicated. Is unanimous consent given?

MANY DELEGATES. No. No.

The PRESIDENT. Objection is made and the amendment is not agreed to.

ORDINANCE OF SUBMISSION.

Mr. D. W. PATTERSON. I ask leave to make a report from a standing committee at this time.

The PRESIDENT. The gentleman from Lancaster asks leave to make a report from a standing committee. Shall he have leave? ["Aye." "Aye."] The gentleman from Lancaster will present his report.

Mr. D. W. PATTERSON. The Committee on Schedule have instructed me to report the following ordinances:

AN ORDINANCE FOR SUBMITTING THE NEW OR AMENDED CONSTITUTION OF THE COMMONWEALTH OF PENNSYLVANIA TO A VOTE OF THE QUALIFIED ELECTORS THEREOF.

It is hereby ordained by the Constitutional Convention of the said Commonwealth, sitting in Philadelphia, as follows:

SECTION 1. This Constitution shall be submitted to the people of the Commonwealth of Pennsylvania, for adoption or rejection, at an election to be held on the second Tuesday of December, 1878, and to be voted for as a whole, and also in the manner following, to wit: and the following articles shall be submitted at said election, to be voted on together, to wit:

- Article No. 1.—Declaration of Rights.
- Article No. 2.—Legislation.
- Article No. 3.—Legislature.
- Article No. 4.—Executive.
- Article No. 6.—Impeachment.
- Article No. 11.—Militia.

Article No. 13.—New Counties.

Article No. 18.—Future amendments.

The following articles shall be submitted at said election to be voted on separately, to wit:

- Article No. 5.—Judiciary.
- Article No. 7.—Oaths of Office.
- Article No. 8.—Suffrage and Election.
- Article No. 9.—Taxation and Finance.
- Article No. 10.—Education.
- Article No. 12.—Public Officers.
- Article No. 14.—County Officers.
- Article No. 15.—Cities and City Charters.
- Article No. 16.—Private Corporations.
- Article No. 17.—Of Railroads and Canals.

The following sections shall be submitted at said election, to be voted on separately, to wit:

- Section 3d of Article No. 8, of "Suffrage and Election."
- Section 4th of Article No. 8, of "Suffrage and Election."
- Section 3d of Article No. 10, "Education."
- Section 7th of Article No. 14, "County Officers."

SECTION 2. Every person entitled to vote, at the election held for the adoption or rejection of this Constitution, shall be entitled to vote for or against the Constitution as a whole, and also for and against the following articles, together and without separation, to wit: Nos. 1, 2, 3, 4, 6, 11, 13 and 18.

SECTION 3. And the persons entitled to vote as aforesaid shall be entitled to vote for or against the following articles and sections of articles, separately and singly, to wit:

SECTION 4. "Articles" Nos. "5," 7, 8, 9, 10, 12, 14, 15, 16 and "17," and sections 3d and 4th of article "8," and section 3d of article "10," and section 7th of article 14. The electors of the Commonwealth shall vote at the usual place of voting throughout the State, for holding general elections, and the said election shall be held by the regular election officers in the several election districts throughout the Commonwealth, subject to the laws regulating the same, (except in the city of Philadelphia, which is herein otherwise provided for,) and shall make returns thereof according to existing laws, except when otherwise herein provided for.

SECTION 5. In each of the counties of the Commonwealth, (except Philadelphia,) the returns of the election shall be made as in the case of an election for Gov-

ernor, but the return judges in each county shall make out a triplicate county return, and transmit the same, in a sealed envelope, within five days after the election, directed to the President (Hon. John H. Walker) of this Convention, at Harrisburg.

SECTION 6. The Secretary of State shall, at least twenty days before said election, deliver, or cause to be delivered, to the county commissioners of each county, blank poll-books, tally lists and forms of returns necessary, and three times the number of printed ballots for said election than there are voters in such county, in the form prescribed in this schedule, the expense whereof shall be audited and paid as other public printing ordered by the Secretary of State is by law required to be audited and paid.

SECTION 7. The county commissioners of the several counties, (except Philadelphia,) shall, after the receipt of the poll-books, tally lists, forms of returns and printed ballots, as aforesaid, cause the same to be fairly distributed and delivered to the election officers of the several election districts in their respective counties, at least five days before said election, and the election officers, clerks, return judges and other expenses incurred by reason of said election shall be paid by the several counties, as is now provided by law for conducting general elections.

SECTION 8. If it shall appear that a majority of votes polled are for the new Constitution, or any part or parts of it, then so much of it as shall have such majority of votes, shall be the Constitution of the Commonwealth of Pennsylvania to that extent, on and after the first day of January, 1874, but if it shall appear that a majority of votes polled were against the new Constitution, or any part or parts of it, then so much thereof shall be rejected, and be null and void.

SECTION 9. For conducting the said election in the city of Philadelphia the following five persons, to wit: — are hereby appointed a board of commissioners, who shall have the direction and supervision of said election, and shall have power to appoint the election boards within the county of Philadelphia, with power to fill vacancies in their own board, as well as vacancies in the several said election boards, and shall be duly sworn (or affirmed) to perform their duties with impartiality and fidelity.

SECTION 10. It shall be the duty of said commissioners, or a majority of them,

and they shall have authority to revise the registration of voters for the several wards or election divisions of said city, to correct the same, and to furnish the said corrected lists to the election officers of each precinct or division thereof; to distribute the tickets for said city provided for by this ordinance to be used at the election; to appoint a judge and two inspectors for each election division, by whom the election therein shall be held and conducted, and to give all necessary instructions to the election officers regarding their duties in holding the election and in making returns thereof.

The general return of the election in the said city shall be opened, computed and certified before them, and with their approval—which approval shall be endorsed upon the return. They shall make report, directed to the President of this Convention, of their official action under this ordinance, and concerning the fairness of the said election within the said city.

The judges and inspectors aforesaid shall conduct the election in all respects conformably to the general election laws of this Commonwealth, and with like powers and duties to those of ordinary election officers. Each inspector shall appoint one clerk to assist the board in the performance of its duties, and all the election officers shall be duly sworn or affirmed according to law, and shall possess all the qualifications required by law of election officers in this Commonwealth. At said election any duly qualified elector, who shall be unregistered, shall be permitted to vote upon making proof of his right to the election officers, according to the general election laws of this Commonwealth. Return inspectors and their clerks shall be dispensed with, but overseers of election may be selected for any precinct by said election commissioners, or appointed therefor by the court of common pleas of said city, whose duties and powers shall be the same as those of overseers of election in said city, under existing election laws applicable thereto.

Returns of the election shall be made in said city as in the case of an election for Governor, but a triplicate general return for said city shall be made out and forwarded to the President of the Convention, at Harrisburg, as is hereinafter provided in case of county returns.

SECTION 11. At the said election the ballots shall be in the following form:

NEW CONSTITUTION.

For the new Constitution, and for all the articles and sections which are not cancelled with ink or pencil, on the following ticket; and against the new Constitution and such articles and sections as are so cancelled therein, viz:

1. For New Constitution.
2. For Article No. 17, entitled Railroads and Canals.
3. For Article No. 1.—Entitled Bill of Rights.
Article No. 2—Legislation.
Article No. 3—Legislature.
Article No. 4—Executive.
Article No. 6—Impeachment.
Article No. 11—Militia.
Article No. 13—New Counties.
Article No. 18—Future Amendments.
4. For Article No. 5—Judiciary.
5. For Article No. 6—Oaths of Office.
6. For Article No. 8— Suffrage and Election.
7. For Article No. 9—Taxation and Finance.
8. For Article No. 10—Education.
9. For Article No. 12—Public Offices.
10. For Article No. 14—County Officers.
11. For Article No. 15—Cities and City Charters.
12. For Article No. 16—Private Corporations.
13. For Section 3 Article No. 8—Changing Time of Township Elections.
14. For Section 4 Article No. 8—Provides for Numbering Tickets.
15. For Section 3 Article No. 10—Make Women Eligible for School Directors.
16. For Section 7 Article No. 14—Allows Minority voting for County Commissioners and County Auditors.

SECTION 12. The parts of said tickets which are not cancelled by the electors shall be counted and returned by the officers of the election as cast for this Constitution and for the articles submitted together, and for the articles and sections separately submitted on said ticket; but the parts of said ticket that are cancelled as aforesaid shall be counted and returned as cast against such articles and sections as are submitted together and separately on said ballot.

The provision of this ordinance shall take effect and be in force immediately.

Done in Convention, at Philadelphia, on the — day of October, in the year of our Lord, 1873.

The PRESIDENT. The report will be laid on the table.

THE SCHEDULE.

The PRESIDENT. Is it the pleasure of the Convention to proceed to the consideration of the article on schedule? ["Aye." "Aye."]

The article on schedule is again before the Convention. When the Convention took a recess section six was under consideration. The Clerk will read the section.

The CLERK read as follows:

SECTION 6. At the general election in 1874, a Lieutenant Governor shall be elected according to the provisions of this Constitution.

The PRESIDENT. The question is upon the section.

The section was agreed to.

The PRESIDENT. The next section will be read.

The CLERK read as follows:

SECTION 7. The Secretary of Internal Affairs shall be elected at the first general election after the adoption of this Constitution, and when the said officer is duly elected and qualified, the office of Surveyor General shall be abolished, and the Surveyor General in office at the time of the adoption of this Constitution shall continue in office until his said present office shall be abolished, and no longer.

Mr. J. W. F. WHITE. I move to amend by striking out all after the word "abolished" in the third line, because the rest of the section is altogether unnecessary.

Mr. D. W. PATTERSON. If the delegate from Allegheny makes that motion, he should also add that the present officer's term shall be extended from the first Monday in December up to the first Monday in January. Unless he do that we shall have no officer during that interregnum. That is the reason why the latter part of the section was put in. The term of the present official expires on the first Monday in December, and under the present Constitution the new officer will not take his seat until the first Monday in January.

Mr. J. W. F. WHITE. If there is any point in the words in that respect, perhaps it would be well that they remain.

Mr. D. W. PATTERSON. We must retain these words or else we must provide

for the extension of the term of the present Surveyor General.

Mr. J. W. F. WHITE. Very well, I withdraw the amendment.

The PRESIDENT. The amendment of the gentleman from Allegheny is withdrawn. The question is upon the section.

Mr. BOWMAN. It seems to me that some of this section ought to be stricken out. It is already provided for in another article which we have previously adopted. This section reads:

"The Secretary of Internal Affairs shall be elected at the first general election after the adoption of this Constitution."

That is right, but the section continues: "And when the said officer is duly elected and qualified, the office of Surveyor General shall be abolished." Now, that is provided for in the article on the executive department. It is provided in that article that the office of Surveyor General shall be abolished and that the Secretary of Internal Affairs is to take his place. I move to strike out all of this section after the word "Constitution" in the second line.

One word further. If the gentlemen present are not satisfied that I am correct let them turn to the article on the executive department and they will discover that there is provided that "the office of Surveyor General shall cease when the Secretary of Internal Affairs shall be duly qualified."

Mr. D. W. PATTERSON. If the gentleman will allow me to explain, that abolishes the office, but it does not extend the present officer during the month to the first of January, when the new officer will take his seat. Do you not see the difference?

Mr. BOWMAN. In reply to the gentleman, allow me to say that two officers could not exist at the same time and there will be no necessity for a Surveyor General after the Secretary of Internal Affairs is elected and qualified.

Mr. D. W. PATTERSON. But he would not be able to act from the first Monday of December up to the first of January.

Mr. BOWMAN. I will read section twenty of the executive article.

"The Secretary of Internal Affairs shall exercise all the powers and duties devolved by law upon the Surveyor General, subject to such change as shall be made by law, and the office of Surveyor General shall cease when the Secretary of Internal Affairs shall be duly qualified."

It covers the whole thing.

Mr. J. M. BAILEY. I would call the attention of the gentleman from Erie to the fact that the words read were stricken out of section twenty of the article on the executive department on my motion, "and the office of Surveyor General shall cease when the Secretary of Internal Affairs shall be duly qualified." That clause was stricken out on my motion for the purpose of putting it in the schedule.

Mr. BOWMAN. Let the record show that. I am not aware that that is so.

Mr. LILLY. Let the Clerk look and see.

The PRESIDENT. The record will be referred to.

The CLERK. In the twentieth section of the executive article the words "and the office of Surveyor General shall cease when the Secretary of Internal Affairs shall be qualified" were stricken out.

Mr. BOWMAN. In view of that I withdraw my amendment.

The PRESIDENT. The seventh section is before the Convention.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 8. Whenever the Superintendent of Public Instruction shall be duly qualified, then the office of Superintendent of Common Schools shall cease and terminate.

Mr. LITTLETON. Before we pass to that I ask whether it would not be possible to secure a more appropriate title than "Secretary of Internal Affairs."

Mr. KAINE. I rise to suggest whether it would not be better to strike out the word "then," in the second line, so as to say, "whenever the Superintendent of Public Instruction shall be duly qualified, the office of Superintendent of Common Schools shall cease and terminate."

The PRESIDENT. Will the Convention unanimously agree to strike out the word "then," in the second line? ["Aye." "Aye."] It is agreed to.

Mr. KAINE. I think it would be better to strike out "ever" from the first word "whenever," and say, "when the Superintendent of Public Instruction shall be duly qualified." I make that motion.

The PRESIDENT. Unanimous consent is asked to change "whenever" to "when." Will the Convention agree to that? ["Yes." "Yes."]

The change is made.

The PRESIDENT. The words "and terminate," in the second line, should be

stricken out, so as to read, "shall cease." That is enough.

The PRESIDENT. If no objection be made those words will be stricken out. The Chair hears no objection. The question is on the section as amended.

Mr. J. M. BAILEY. I should like to inquire of the chairman of the committee whether they have provided for the time when the Superintendent of Public Instruction is to be appointed.

Mr. D. W. PATTERSON. That is a new office to take the place of the Superintendent of Public Schools on the first Monday of January.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 9. Nothing contained in this Constitution shall be construed to render any person now in office ineligible for election to the same at the end of his present term.

The PRESIDENT. If there be no objection the Clerk will refrain from journalizing these merely verbal alterations.

Mr. HAY. I ask that all the matter which was inserted by the Convention unanimously be journalized. So far as I am concerned, I object to any alterations being made without their being journalized. Words may be omitted which may be of importance, and the Journal ought to show it.

The CLERK. I should like to know if the delegate wants the change from "whenever" to "when" journalized.

Mr. HAY. It is easy to suggest a case where an alteration is of no importance; but there may be alterations which are of importance, and the report of the committee ought not to be altered without the alteration being noted on the Journal.

Mr. FUNCK. I ask that the words "to the same" be stricken out of the ninth section. They are entirely superfluous. ["Oh, no."]

Mr. KAINE. I move to amend—

The PRESIDENT. There is an amendment moved by the delegate from Lebanon, which is to strike out the words "to the same" in the second line.

Mr. BUCKALEW. I desire to make a statement in regard to this section. It was put in in committee of the whole on a suggestion made by me in conference with the member from Dauphin now absent (Mr. MacVeagh.) I desire this section to be passed over for a few moments so that I can make a correction of it. It is broader than was intended. I do not

intend sheriffs now holding office to be elected county treasurers. The idea I have is to confine it to State officers holding a first term, that they may be re-elected. I ask the Convention to pass over this section for the present.

The PRESIDENT. The delegate from Columbia asks that this section be passed over for the present. Will the Convention agree to that. ["Aye." "Aye."] It is agreed to. The next section will be read.

The CLERK read as follows:

SECTION 10. The judges of the Supreme Court who shall be in office when this Constitution shall take effect, shall continue until their commissions shall severally expire. Two judges in addition to the number now composing the said court shall be elected at the first general election after the adoption of this Constitution.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 11. All courts of record and all existing courts which are not specified in this Constitution shall continue in existence until the first day of December, 1875, without abridgment of their present jurisdiction, but no longer, except the court of first criminal jurisdiction for the counties of Schuylkill, Lebanon and Dauphin, which is hereby abolished.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 12. The register's courts now in existence shall be abolished on the first day of January next succeeding the adoption of this Constitution."

The section was agreed to.

The CLERK read the next section as follows:

SECTION 13. The Legislature shall, at the next session after the adoption of this Constitution, designate the several judicial districts provided for under this Constitution, and the number of judges learned in the law who shall be at the then succeeding general election elected in such several districts, and the judges at present in commission shall continue during their unexpired terms judges of the new districts in which they reside.

Mr. ARMSTRONG. I move to amend that section by striking out the words, "provided for under," in the second line, and inserting "as required by;" also by striking out all of the third and fourth lines, down to the word "and," inclusive;

also in the fourth line striking out the words "at present" and inserting in lieu thereof the word "then," so that the section as proposed to be amended will read :

"The Legislature shall at the next session after the adoption of this Constitution designate the several judicial districts as required by this Constitution. The judges then in commission shall continue during their unexpired terms judges in the districts in which they reside."

The amendment was agreed to.

Mr. J. M. BAILEY. Before the final passage of the section, I should like to ask the chairman a question. The last two lines read in this way: "The judges then in commission shall continue during their unexpired terms judges of the new districts in which they reside." Now, in the district that Tioga county is in they have two judges, and they both live in the same county; and that is the case in Soranton I am informed by the gentleman from Luzerne. How will this section affect those cases?

Mr. ARMSTRONG. The section would not provide for them if these words were allowed to remain.

Mr. J. M. BAILEY. But should not the section be changed?

Mr. ARMSTRONG. There is nothing prohibiting two judges from residing in the same county. One must reside there.

Mr. J. M. BAILEY. But we make a constitutional provision that both shall be judges.

Mr. ARMSTRONG. His position would not be taken from any judge by the fact that he lived in the same county with another.

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

Mr. HALL. I suggest to the chairman of the Committee on Schedule that it would be better to use the words "General Assembly" all the way through. I see he does so in section seventeen, but the word "Legislature" is used in sections thirteen and fourteen.

Mr. D. W. PATTERSON. That slipped in inadvertently. Let that change be made by unanimous consent.

The PRESIDENT. If there be no objection that amendment will be made. Section thirteen as amended is before the Convention.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 14. The Legislature shall at the next succeeding session after each de-

ennial census, and not oftener, designate the several judicial districts provided for under this Constitution.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 15. Judges learned in the law of any court of record in this Commonwealth holding commissions in force at the adoption of this Constitution, shall hold their respective offices until the expiration of the terms for which they were elected and commissioned, and until their successors are duly qualified, except the president judge of the court of first criminal jurisdiction for the counties of Schuylkill, Lebanon and Dauphin, whose office as judge of said court shall expire at the time of the adoption of this Constitution, and the Governor shall commission the said judge as a judge of the court of common pleas of Schuylkill county, for the unexpired term of his office.

Mr. ELLIS. In the seventh line of this section, after the word "commission," I move to strike out the words, "the said judge as" and insert the word "him," so as to read, "and the Governor shall commission him."

Mr. ARMSTRONG. If the gentleman will give way, I will offer an amendment which may possibly obviate that. If the gentleman will refer to the eleventh section he will find that this court is there abolished. There is tautology in the expressions in this section. I therefore propose, if I am in order, to strike out all after the word "qualified," in the fourth line down to the word "and," in the seventh line; also to strike out the word "said," in the seventh line, and insert the word "president;" and after the word "judge" to insert these words: "Of the court of first criminal jurisdiction for the counties of Schuylkill, Lebanon and Dauphin." As amended it will read thus:

"Judges learned in the law, of any court of record in this Commonwealth, holding commissions in force at the adoption of this Constitution, shall hold their respective offices until the expiration of the term for which they were elected and commissioned, and until their successors are qualified. The Governor shall commission the president judge of the court of first criminal jurisdiction for the counties of Schuylkill, Lebanon and Dauphin, as a judge of the court of common pleas of Schuylkill county for the unexpired term of his office."

Mr. ELLIS. That is all right. I withdraw my amendment.

Mr. ARMSTRONG. I also propose to strike out the words "in this Commonwealth," in the first line, as being unnecessary. That is implied, of course.

The PRESIDENT. The question is on the amendment of the delegate from Lycoming (Mr. Armstrong.)

Mr. LITTLETON. I desire to suggest that the provision as to this judge would come in much more appropriately in the eleventh section, and then this section would stand as to all judges. Then you have simply to say "the judge of said court" without repeating this long title. I presume unanimous consent will be given to that change. The eleventh section abolishes the court, and it is very appropriate that the provision to retain its judge as a judge of common pleas should come in immediately afterwards.

Mr. ELLIS. The eleventh section relates to courts, and the fifteenth section to judges.

Mr. LITTLETON. That makes no difference at all.

Mr. ARMSTRONG. I attempted to draw it with a view to the very suggestion that the gentleman from the city now makes. I was embarrassed by the fact that the two sections relate to different subjects. It makes the expression quite as difficult and as lengthy as it stands now.

Mr. LITTLETON. It would be much more appropriate in that place. I merely make the suggestion.

The PRESIDENT. The question is on the amendment offered by the delegate from Lycoming (Mr. Armstrong.)

The amendment was agreed to.

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

Mr. STRUTHERS. I move to amend by striking out, in the third line, the words "and elected," so that the clause will read:

"Until the time for which they are commissioned."

Mr. ARMSTRONG. I think it would be very well to strike that out.

The amendment was agreed to.

The PRESIDENT. The section as amended is now before the Convention.

The section as amended was agreed to.

Mr. ARMSTRONG. I desire to suggest an amendment to the fourteenth section, which we have passed and which was omitted at the time. I ask unanimous consent to strike out the words, "provided

for under," and insert the words "as required by."

The PRESIDENT. Shall unanimous consent be given to make the amendment?

Unanimous consent was given and the amendment made.

Mr. HARRY WHITE. Mr. President: I suppose, now, the section as amended is before the Convention.

The PRESIDENT. The question now recurs upon the fourteenth section as amended.

Mr. HARRY WHITE. I hope the section will not pass. It is entirely unnecessary. I called the attention of the Convention to this section of the schedule when we were in committee of the whole, if it is proper to refer to what occurred in committee of the whole. It is altogether unnecessary to the schedule, and I call the attention of all delegates from the rural districts who are interested in the principle involved in this section, under the thirty-second section of the judiciary article. We have already provided for this, if it is necessary, in the thirteenth section, wherein we say that the Legislature shall, at the next session after the adoption of this Constitution, designate the several judicial districts in obedience to the provisions of that feature of the Constitution. That is all that is required, and leave the balance to the discretion of the Legislature from time to time. Of course, after the adoption of this Constitution, the General Assembly is the real body to designate it when passing an act regulating generally the judiciary, and adapting it to the provisions of this Constitution. That was done by the Legislature of 1852, after the adoption of the amendment to the Constitution in 1851, and it is the law to-day. The Legislature of 1874 or 1875, as the case may be, will, of course, pass legislation to meet this. We have bridged over the new condition of things in passing the thirteenth section. Now, it is an unusual thing to make periodical apportionments of the State into judicial districts, but I can conceive how a stringent provision of this kind will interfere with the benignant and wise provisions of the thirty-second section of the judiciary article. I can imagine that the Legislature of 1874 will go to work and apportion the State into judicial districts in obedience to the provisions of that article, and then in a few years afterwards, by reason of manufacturing interests or otherwise, if the population of a county is

largely increased or its business interests have become largely increased, that the legislative hand is needed in administering any relief to that county, it will find itself tied so that it cannot disconnect a county from other counties because of this proposition here. I want to leave the question open. The Legislature will, I apprehend, do no wrong in this matter. It has taken care of the judiciary hitherto, and I am opposed and averse to this section, because it is entirely hostile to the spirit of the thirty-second section, which we placed in the article on the judiciary.

Mr. WHERRY. I think the gentleman from Indiana has forgotten that this judiciary is established upon a basis of population.

Mr. HARRY WHITE. I have not forgotten it at all.

Mr. WHERRY. Upon a fixed ratio, and if that basis is worth anything at all, it is necessary to retain this section in the schedule; absolutely necessary, because to strike it out is to vitiate all that we have passed from the beginning.

Mr. BOWMAN. I move to amend the section, by striking out, in the second line, the words "and not oftener" and for this reason: It is already provided in the article on the judiciary that counties containing forty thousand inhabitants may be formed into separate judicial districts. Now, there are some counties containing a population of thirty-five thousand and others thirty-seven thousand, and in the next few years they may contain forty-three thousand inhabitants and perhaps more. If this section is retained as it stands at present, it strikes me that these counties when they attain a population of forty thousand will have to wait until 1880, the period when the next decennial census of the United States will be taken, before they can be formed into judicial districts. By striking out these words, which I have mentioned, the subject will be left with the Legislature to form new districts whenever a county comes up to the ratio fixed in the article on the judiciary, and it is for this reason that I make this motion. I think otherwise we should do injustice to these smaller counties. There may be a great deal of judicial business to be done in these counties that attain, before the expiration of 1880, forty thousand inhabitants. Some of the oil counties, for instance the county of Butler, may attain fifty thousand inhabitants, as it is very

likely to do in the next three years, and still there will be no help for that county.

Mr. LILLY. For the very reason that the gentleman from Erie has stated this amendment should not prevail. The thirty-second section of the article on the judiciary was simply an outrage on the smaller counties and ought never to have been inserted in this Constitution at all. I see now that this is an attempt to let the Legislature split up the State, even more often than is provided in the judiciary article, into judicial districts. The thing was an outrage there, and it would be an outrage here.

Mr. KATNE. I shall vote in favor of the amendment of the gentleman from Erie to strike out these three words in the second line and then I shall vote against the section, believing as I do that it ought not to be here at all, because if I understand it, I think it would prevent the Legislature from regulating the judicial districts of the State after the next decennial census. The section provides that the Legislature shall, at the next succeeding session after each decennial census, divide the State by designating the several judicial districts provided for under this Constitution.

Mr. WHERRY. The gentleman overlooks section thirteen.

Mr. KATNE. As we have already passed section thirteen, which I do not overlook, that is another reason why this should come out entirely. It is merely a restriction of what is provided for in section thirteen, and should not in my judgment be allowed at all.

The PRESIDENT. The question is upon the amendment of the gentleman from Erie.

The amendment was rejected.

Mr. J. N. PURVIANCE. I move to strike out the fourteenth section entirely.

Mr. NILES. It can be voted down.

The PRESIDENT. The question is upon the fourteenth section as amended.

Mr. HARRY WHITE. On that question I call for the yeas and nays.

Mr. J. N. PURVIANCE. I second the call.

Mr. ARMSTRONG. I do not desire at this late stage of the session to consume time. This section was, however, debated this morning and decided, and the reasons which were sufficient for the Convention then ought to be sufficient now.

The PRESIDENT. The yeas and nays have been ordered, and the Clerk will proceed with the call.

The yeas and nays were taken with the following result :

Y E A S.

Messrs. Armstrong, Bally, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Barclay, Barr, Black, Boyd, Buckalew, Calvin, Carter, Cassidy, Cochran, Cronmiller, Curry, Curtin, Dallas, De France, Dunning, Edwards, Ellis, Ewing, Finney, Funck, Gibson, Gilpin, Guthrie, Hall, Hanna, Hay, Hazzard, Horton, Knight, Lamberton, Landis, Lilly, Littleton, Long, M'Camant, M'Calloch, M'Michael, Mantor, Minor, Mott, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Purman, Reed, Andrew, Reynolds, Rooke, Runk, Smith, Henry W., Smith, Wm. H., Temple, Wetherill, J. M., Wherry, White, David N., White, J. W. F. and Walker, *President*—44.

N A Y S.

Messrs. Alticks, Andrews, Beebe, Bowman, Corbett, Elliott, Howard, Kalne, Lawrence, M'Clean, M'Murray, Mann, Purviance, John N., Purviance, Samuel A., Strathers, White, Harry, Woodward, Worrall and Wright—19.

So the section as amended was agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Ainey, Baer, Bardaley, Bartholomew, Biddle, Bigler, Brodhead, Broomall, Brown, Bullitt, Campbell, Carey, Church, Clark, Collins, Corson, Craig, Cuyler, Darlington, Davis, Dodd, Fell, Fulton, Green, Harvey, Hemphill, Heverin, Hunsicker, Lear, MacConnell, MacVeagh, Metzger, Mitchell, Parsons, Patton, Porter, Pughe, Read, John R., Ross, Russell, Sharpe, Simpson, Smith, H. G., Stanton, Stewart, Turrell, Van Reed and Wetherill, Jno. Price—56.

Mr. BUCKALEW. I ask that we now consider section nine, which was passed over.

The PRESIDENT. That section will be read.

The CLERK read as follows :

SECTION 9. Nothing contained in this Constitution shall be construed to render any person now in office ineligible for election to the same at the end of his present term.

Mr. BUCKALEW. I move to amend by striking out all after the word "now" in the second line, and inserting "in office for a first official term, ineligible for re-election at the end of such term."

The amendment was agreed to.

The section as amended was agreed to. The CLERK read the next section as follows :

SECTION 16. After the expiration of the term of any president judge of any court of common pleas in commission at the adoption of this Constitution, the judge of such court learned in the law and oldest in commission, shall be the president judge thereof, and when two or more judges are elected at the same time in any judicial district, they shall decide by lot which shall be president judge.

Mr. J. W. F. WHITE. I move to amend by striking out the first "and" in the fourth line, and by adding at the end of the section these words: "but when the president judge of any court shall be re-elected he shall continue the president judge of that court."

One word in explanation of the amendment I have offered. We have adopted the principle of the oldest incumbent as applicable to the judges of the Supreme Court, and in the Supreme Court the judges are not eligible to re-election. In reference to our courts of common pleas the judges are elected merely for ten years. No doubt it will often happen that the president judge of some court will be re-elected, and although he would be an older judge perhaps than any other member of that court, yet he would be junior in commission after his re-election. Why should he be displaced as president of that court and a younger judge placed in the position of presidency? If the president judge should be re-elected, why should he not continue president judge of the court? The amendment I propose simply meets that contingency.

The PRESIDENT. The question is on the amendment of the delegate from Allegheny.

Mr. BEEBE. The delegate from the city, (Mr. Biddle,) whom I regret is not present this evening, had an amendment prepared as a substitute for this section, and was very anxious it should be inserted. I say this much in his behalf inasmuch as he is necessarily prevented from attending this evening.

Mr. J. W. F. WHITE. I will add that Mr. Biddle, the delegate whom I suppose is referred to, was very anxious to have this amendment inserted in this section—not the one I have proposed, exactly, but the substance of it.

Mr. T. H. B. PATTERSON. I wish to suggest to delegates that the way the section now stands it is a direct violation of

the will of the people in regard to a president judge. Suppose they re-elect a man who is now a president judge; when his commission ends he goes out of office, and although he may be re-elected by a unanimous vote of a county, yet still a junior on the bench may be put over him. I ask the Convention to consider for a moment the absurdity of this section. All the lawyers I have heard speak on this subject are strongly opposed to the provision as it now is, and I desire that the change suggested by the gentleman from Allegheny should be made.

The PRESIDENT. The question is upon the amendment of the delegate from Allegheny (Mr. J. W. F. White.)

Mr. ARMSTRONG. The rule which obtained in respect to the Supreme Court was adopted at a time when the old system was a novelty, and it was regarded by very many of the ablest lawyers of the State as unfortunate that the experience of the Chief Justice should be lost to the bench in that position. This proposition would not apply to any district in the State except Philadelphia and Allegheny. I understand that members from both those places desire this change to be made. I can see some good reasons why a president judge who has had experience in that position should not be obliged to give way and to take an inferior position upon the same bench. I do not propose to discuss it at length, but my own judgment accords with the suggestion which has been made.

Mr. HANNA. I should like to inquire if the wish of the chairman of the Judiciary Committee is to make an amendment similar to this when we reach the section in the schedule with regard to the courts of Philadelphia?

Mr. ARMSTRONG. I have the same amendment noted if it should be adopted here, to come in at the end of the eleventh line of the eighteenth section, and also at the end of the seventh line of the nineteenth section.

The amendment was agreed to.

Mr. D. W. PATTERSON. I ask unanimous consent to this amendment, after the word "judges" in the fourth line, insert "learned in the law." We elect associates in many districts and it might affect them. I ask unanimous consent to put in the words, "learned in the law."

Mr. ANDREW REED. I should like to ask the delegate from Lancaster a question. I wish to know when an associate judge would be a president judge. I

never heard of such a thing. I do not see any necessity for the amendment whatever.

Mr. D. W. PATTERSON. They might claim it under this section unless we put in these words.

The PRESIDENT. The question is on the amendment of the delegate from Lancaster.

The amendment was rejected.

Mr. KAINE. I offer the following amendment to come in at the end of the section:

"Associate judges not learned in the law elected after the adoption of this Constitution shall be commissioned to hold their offices for the term of five years."

Mr. President, although there is nothing said in the Constitution so far as regards the length of time the associate judges shall serve, yet we are to have associate judges in counties where no law judge resides; and although the Constitution may and does provide that the courts of common pleas shall remain as now organized unless as herein changed, yet the judiciary article has been so much changed that I think it would be better to designate in this schedule the length of time which the associate judges shall hold their office, and therefore I have offered the amendment.

Mr. LITTLETON. I rise to a question of order. This is not in its appropriate place.

The PRESIDENT. The delegate is not in his place. [Laughter.]

Mr. LITTLETON. I understood that I had a dispensation from the Chair. I bowed most graciously to the Chair in the early part of the evening, and he consented that I should remain here.

It seems to me if this provision should be adopted, and I have no objection to it, it should be inserted in the judiciary article itself and not be placed in the schedule. I raise the question of order that it is not in order at the present time.

The PRESIDENT. That is for the House to say.

Mr. ARMSTRONG. If it be adopted here, and it is the sense of the Convention, it can be transferred by unanimous consent to the judiciary article.

Mr. LITTLETON. I have no objection to it, but it ought to be in the article on the judiciary.

Mr. ARMSTRONG. I suggest to the gentleman then to modify his motion that the commission shall date from the first of January after their election, so as to

obviate the fact that they now date from the first of December.

Mr. KAINE. I modify the amendment in that way.

The PRESIDENT. The question is on the amendment as modified.

The amendment was agreed to.

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

The section was agreed to.

The CLERK read the next section as follows:

SECTION 17. The General Assembly at the first session after the adoption of this Constitution, shall fix and determine the compensation of the judges of the Supreme Court, and of the several judicial districts of the Commonwealth, and the provisions of the fifteenth section of the article on "legislation" shall not be deemed inconsistent herewith. Nothing contained in this Constitution shall be held to reduce the compensation now paid to any law judge of this Commonwealth.

Mr. ANDREW REED. I move to amend this section by adding, "or prevent the same from being increased by law."

Mr. LITTLETON. That is unnecessary. It is implied.

Mr. ANDREW REED. Well, I have this to say: It is provided in the article on legislation that the fees or compensation of no officer shall be increased or diminished by law. I am aware that this section provides that the Legislature shall fix the compensation of the judges; but when they fix it it remains fixed and cannot be increased during the term of any judge in the State. That might be right if the terms of the judges were for a short period, but we have changed them and made the terms of our Supreme Court judges twenty-one years. No man can tell what will be the state of our currency or what will be the value of money twenty years hence; and although twenty years hence every man in the State might feel that the compensation to be established next winter, which might be adequate at that time, was inadequate, the Legislature would be helpless and would be unable to afford the judges any relief. The Legislature should be allowed to increase the salaries of the judges, provided in their judgment it is necessary.

Mr. BUCKALEW. I rise to a question of order. In one of the regular articles of the Constitution finally passed we have provided that the salaries during fixed terms shall not be increased or dimin-

ished. I submit that it is not in order in this way to repeal that provision in one of the regular articles and provide that salaries may be increased by law.

Mr. ARMSTRONG. This amendment will simply operate as an exception in favor of the judges. That is the whole effect of it. It is not a repealing section, but it is taking a particular subject-matter out of its operation. It is the ordinary case of an exception. I have long thought, and I have expressed my convictions on that subject, that we ought not to limit the Legislature in this regard. We cannot anticipate for a quarter of a century what exigencies may arise to render an increase necessary. I believe the power is safely vested in the Legislature, and that the amendment now proposed will be eminently wise and proper.

The PRESIDENT. Is the point of order insisted upon?

Mr. BUCKALEW. Yes, sir, I insist upon it. I do not know what our Constitution will be after a while if we proceed in this way.

Mr. D. W. PATTERSON. We are still upon the Constitution. This schedule is a part of the Constitution.

Mr. CURTIN. Mr. President: I am sure I am as anxious as any member on this floor that the distinguished gentlemen filling judicial positions in Pennsylvania shall be well paid; but it must not be forgotten that we have largely increased the number of the judges.

The PRESIDENT. It is the duty of the Chair if the point of order is raised, in the first place, to decide it.

Mr. CURTIN. Certainly.

The PRESIDENT. The Chair, although he is in sympathy with the delegate from Columbia, cannot sustain the point of order.

Mr. CURTIN. Then I am speaking on the amendment. I do not think the salaries of any official in the State should be increased or diminished during the term for which he is appointed or elected. I do not think that there is any principle which you can apply to the compensation of officials of the State but a limitation of that character on the legislative power. It may be possible that circumstances may so change that the compensation fixed at the beginning of the term would not be adequate to the support of the judge at the close of a long term of official service; but I do not think that a single hard case, or a number of hard cases of that kind are sufficient to justify this

Convention in refusing to place upon the power of the Legislature this wholesome restraint, so that the man who is a candidate for office before the people or for an appointment from the Executive shall understand at the time what his duties are and what his compensation is to be; and when he accepts the office with its duties and the compensation, however hard it may be at times, I would regret if this Convention should take out of the Constitution a provision so wise and salutary as this.

I believe that every year during the term that it was my privilege and honor to be near the Legislature, efforts were made to increase the salaries of the judges of the State. I do not allege that the judges came to Harrisburg in the character of borers for an increase of their salary, nor do I allege that there was any combination on the part of the judges of the State for the purpose of procuring beneficial legislation; but when you consider the power of the judges, when you consider the desire that gentlemen of the bar who practice before them have to be agreeable to them, and that your Legislature is largely composed of lawyers, sometimes two-thirds, and sometimes three-fourths lawyers, when you take into consideration the fact that you are fixing your number of judges by the number of people in the State, and that soon every forty thousand people in Pennsylvania will have a judge of their own, you increase the power of the party applying largely above the means of resistance on the part of those to whom the application is made. When the number of your judges is increased to some eighty or ninety, if it is their pleasure to ask for an increase of salary at any time from the Legislature, they have the power to accomplish it. A combination of the judges of the State, when they are increased to the number proposed in this Constitution, could at any time succeed in obtaining an increase of their compensation.

It is suggested to me by the delegate from Philadelphia, (Mr. Knight,) and to that I should have no objection, to make their salaries payable in gold, so that the depreciation of the currency will not affect their compensation. I would be willing to agree to anything in the world that can be offered to relieve, if possible, the Legislature every session from the importunities to increase the compensation of a particular branch of the public service. Fix the salaries of your judges as high as

you please and I will vote for it if you put it in this Constitution; and if I were a member of the Legislature I would vote them a salary to the utmost liberality; but when I had established an office and fixed a salary, and a citizen of the State goes for that office and goes for that salary, he knows what he is after, and I would give him no more during the time of his official tenure.

Mr. ARMSTRONG. The man who takes an office which is to continue for twenty-one years does not know what he goes for, and he does not know what he is to get; and the gentleman himself did not know when he became Governor of this State. When he went into his office, he went in at a time when the whole country was distressed with a gigantic war; and if the judges of the Supreme Court and the judges of the other courts desired an increase of salary, it was simply because they could not live upon what they got. I say that the amount of salaries paid to judges by many of the States, and I will add by the United States, is simply a disgrace to the country. Two children, daughters of a former Chief Justice of the United States Supreme Court, are now earning their living on limited salaries by daily labor as clerks in the departments at Washington, and men whose cases he decided are rolling in wealth amounting to millions of dollars. Can the judges of the Supreme Court live on less than the Governor of the Commonwealth? Yet they receive less than the Governor, and I say that when the judges of the Supreme Court, or the judges of any other court, clamor for an increase of their compensation, they are only asking for what they are entitled to because their salaries now are wholly inadequate. Now this Convention undertakes to say that we may anticipate by so much as twenty-one years, what shall be the value of the services of the judges of our Supreme Court and to limit for all that period of time the compensation which they are to receive.

If we cannot trust the Legislature on a question of that kind, there is nothing with which they deserve to be trusted. We entrust the people's money and their interests to the members of the Legislature, and yet we are now asked to say here that there is a necessity for drawing the strings of the purses of the judges until their families are many of them living in situations of extreme necessity and want. If you want to put any such

thing in the Constitution, I enter my protest against it. I believe it is essentially wrong and unjust, and I believe you may safely trust the Legislature, if we trust them with anything, with the salaries of the judges, and they will make them only that which is just and right.

Look at the past history of legislation! Can any man say that the judges in this State, whether of the Supreme Court or of any inferior court, are in any danger of receiving too much compensation? I say not. If the Governor of the State is worthy to receive \$10,000 a year, the Chief Justice of the State is worth just as much. Let these salaries be fixed as other salaries are fixed. Let this question stand on its merits, and be submitted to the Legislature, which controls other interests which are dear to the people of this Commonwealth.

When have the people complained that the judges received too much? The people have never complained. The only complaints have come from politicians who have attempted to arouse the indignation of the people with questions of salary. Did the judges of the Supreme Court, any of them, ever ask for more than they ought to have received? I say the record will show that they never have received more than they were entitled to, and I never have heard the people complain of the amount of salaries paid to judges, unless some interested politician desired to arouse their indignation for some special purpose of his own, and then you hear of the great extravagance of Legislatures and of the importunities of judges!

Give the judges of the Commonwealth enough to elevate them to the same position as the lawyers who try cases before them, and of the neighbors among whom they live. Let them have enough to support their families as their neighbors support theirs. That is all we ask for them, and in asking that, we ask for nothing more than is right and just.

Mr. CURTIN. Mr. President: I have just a word to say. I have no desire to interfere with the judges in the least, nor to take from them any of the means of living, nor to send their families in want to the cold charity of the world. But I am opposed to high salaries, and I say that the increase of the Governor's salary to \$10,000 a year was in violation of the spirit if not the letter of the Constitution, which declares his compensation shall not be increased or diminished during the

term for which he shall have been elected.

Mr. JOSEPH BAILY. That is so.

Mr. CURTIN. This government never was intended in its organization to pay high compensation, or to make men rich by getting into office, and to do so is a violation of the design of its founders, and will be full of evil in the future.

Mr. DALLAS. That is the true doctrine.

Mr. CURTIN. How many judges of the common pleas courts in the interior of the State made their salaries while at the bar? I practiced law for fifteen years with tolerable success, quite as much so as the gentlemen who speak here eloquently and feelingly and implore so much for the judges, and who say so much about the penury of their families, and I get less from my practice than the judge of the common pleas in my district received. How many judges on the bench in Pennsylvania earned their salaries at the bar? How many of them did it even in this city? Let us come down to a consideration of the true condition of the question, and talk of this as sensible men. I believe that very few of them at the bar earned the amount of their salaries as judges, and when the people elect their judges the government does not guarantee that they shall be pensioned or their families after them. It is the misfortune of the country that men who get into high official positions will spend all their salaries, and it is not our province to make it up. We are not here for that purpose, and the principle I advocate is simply this—that a man who desires the honors and the dignity and the emoluments of a position on the bench, should know by fixed laws how long his official tenure shall continue and what his salary shall be. I would start with a liberal salary, and I would not leave it to the Legislature to increase that salary from year to year at their pleasure.

Mr. HARRY WHITE. I have no personal feeling about this matter. I desire to be consistent only. What is the situation of this proposition? A gentleman came to my seat a few moments since, and while I was conversing with him my mind was withdrawn from the practical question which was submitted to this Convention for consideration. When my attention was returned to the Convention, I was surprised at the momentary excitement which was elicited upon this matter; and I discovered that the fourteenth section was under consideration,

the purpose of which was to remove any doubt which might exist in the legislative mind as to their power to fix, at the first session after the adoption of this Constitution, the salary of the judges of the supreme bench and of the judges of the courts of common pleas. The provision was made previously in this body that nothing in what was known as the fifteenth section of the report of the committee on legislation, which prohibited an increase or decrease of salary of an official during the term for which he was elected, should be inconsistent therewith. When the delegate from Columbia rose in his place when that was under consideration in committee of the whole and moved to amend by adding the clause "nothing contained in this Constitution shall be held to reduce the rates of compensation now paid to any law judge in this Commonwealth," we all assented to that. We were satisfied with it, and hoped the discussion was ended.

Now, however, we discover that we have a new issue here. The subject is brought up for discussion by adding a new proviso that nothing contained in this Constitution shall interfere with the power to raise the salaries of the judges. I am opposed to this. I am opposed to opening anew this question which was settled, after the protracted discussion which was had in this Hall on the adoption of the report of the Committee on Legislation, by a solemn vote and after the lapse of days and months. Yet, after having assented to the result of the action of this Convention, we find there is a sequence to the entire body of the Constitution and that a solemn provision that no increase or decrease of salaries shall be made by the Legislature during the term for which an official has been elected can be here sought to be disregarded. I am opposed to it. Judge and laymen are treated alike in this matter. And yet we now discover that an insidious amendment is offered here—I characterize it by the proper term, an insidious amendment—in the article on schedule which is merely a provision whereby to bridge over from the old condition of things to the new condition of things, which would repeal entirely and ignore what we have determined as the solemn judgment of the Convention in this matter. I protest, as a delegate of this Convention, against undoing at the eleventh hour inconsiderately what we considerately did. There never was a more dangerous power reposed in the

hands of the Legislature than this thing of trifling with and manipulating the salaries of officials. Every gentleman of experience in the Legislature has seen it. Delegates rise up here and declaim against demagogism and talk about this declaiming against large salaries in the hope of gaining favor with the people. Why, Mr. President, the very contrary is the case. In the Legislature there is no proposition so popular generally, both in the Legislature and in its surroundings, as a proposition to increase the salary of the officials possibly around the House or of different officials in different districts of the Commonwealth.

It awakens an interest, a local feeling, which it is difficult for any individual member to resist, and then if one member rises in his place and asserts his independence and discharges his duty, he is met with the criticism that he is seeking the favor of the people through pure demagogism. There is always a desire at the Capital in favor of an increase of salary. I seldom ever saw an officer who was frank enough to admit that he was paid enough; and yet, not a great while ago, I talked to a very eminent judge who is upon the bench of the highest court in this Commonwealth. He told me and other members of the Legislature that they received enough compensation for their services. I have no criticism to make about the supreme judges of this Commonwealth. I admire them and respect them. I am satisfied with them and I sympathize with the consistent position which this Convention has taken upon this question in refusing to let the Legislature from time to time play battledore with their salaries.

The gentleman from Lycoming has said something about the impossibility of the judges being able to live comfortably upon their present salaries. I sympathize there with the view of the delegate from Centre when he says that it requires a larger salary for a Governor to live comfortably and maintain the dignity of the Commonwealth than it does for a judge to administer justice in his court. I want to keep the wolf from the door of all the judges of all the courts and of all our officers throughout the State; but when they have been elected to office with an understanding of what compensation they are to receive during their term, I say let it remain so fixed. And in making that utterance I utter no demagogism; I repeat that which this Convention solemnly decreed in the fifteenth sec

tion of the article on legislation, and I hope that now in the eleventh hour of this Convention we shall not stultify ourselves by going back upon our own record.

Mr. ARMSTRONG. The gentleman has characterized what has been said as an insidious introduction of a provision. I desire to say that so far as I am personally concerned, I did not know that this provision was intended to be offered. I knew nothing at all about it, but I was glad when it was offered, and let it come when it will, and where it will, I shall always vote on a question of this kind in favor of entrusting the subject to the Legislature. The gentleman speaks about the desire in the Legislature in regard to an increase of salaries. The Legislature would pay a whole army of pastors and folders, for they have votes and influence, but it is hard work to get them to do justice to the judges.

Mr. HOWARD. I had supposed that the ghost of this increase of salaries had got out of the Convention, but somebody, it seems, has thought proper to bring it back here to-night. Gentleman have the right to do so unquestionably; but it has been considered here so often that really I supposed we had got done with it. A gentleman suggests that it is like the railroad article. [Laughter.]

Mr. President, I can see no reason why delegates should be so persistent in making judges an exception to all other officers in the Commonwealth, nor do I believe, although I do not suppose the delegate from Lycoming, and do not mean to say that I would discredit his word—but I do not believe the assertion that the Legislature are unwilling to do justice, that is, to give the judges of the Commonwealth a fair salary. Some delegates thought it was an extraordinary assertion when I stated that judges importune members. They do not, themselves, go personally to the Legislature to ask for an increase of salary. I know how it is done. Members of the bar are asked to attend to this business. Members of the bar are asked to go to Harrisburg, and they are found there almost every winter. I know that Senators have been importuned in their seats. I did not go over to the House to see how it was done there. I was well satisfied that they were paid in proportion to payment for other employments in the Commonwealth. I was satisfied in my own mind and could not consistently vote for that increase, and yet men of high character

came there to insist and urge members to vote for an increase of salary. Men in other employments, whenever they find the compensation does not pay, change their employment and go about some other pursuit. That is the right way, the straight way, and the best way.

I am opposed to giving this power to the Legislature to increase their salaries after they are installed in office. I believe in fixing a fair salary. I would give a liberal salary. If the present salary is not sufficient, let the Legislature when they fix it make a fair and liberal salary, pay them for their talent, pay them for their education, pay for whatever has been the increase in the cost of living, because we know it has been increased; but do not leave it in the power of the Legislature, so that at every session they may be importuned by delegations of members of the bar from different parts of the Commonwealth speaking the sentiment of their judges to have their pay increased. Here, the other night, some delegate stated that perhaps it was a mistake when I asserted that no longer ago than 1871 a petition came to Harrisburg signed by all (or nearly so) of the president judges in the Commonwealth, asking that their pay should be increased.

I hope that when we have taken the vote on this question it will be settled. We have fixed it in the body of the Constitution, and why it is attempted to be changed here in the schedule I do not understand.

Mr. G. W. PALMER. Mr. President: This question has been discussed here until I am very tired of hearing it, and I take the liberty now of asking for the previous question.

Mr. MANN. What is the pending motion?

The PRESIDENT. The pending motion is the amendment of the delegate from Mifflin (Mr. Andrew Reed.)

Mr. ARMSTRONG. Let the amendment be read.

The CLERK. Add to the end of the seventeenth section the words, "or prevent the same from being increased by law."

Mr. ANDREW REED. I ask for the yeas and nays.

Mr. ARMSTRONG. I second the call for the yeas and nays.

The yeas and nays were taken and resulted as follow :

YEAS.

Messrs. Addicks, Armstrong, Beebe, Biddle, Bowman, Boyd, Bullitt, Calvin, Cassidy, Ellis, Fell, Hall, Hanna, Lambertson, Landis, Lilly, Littleton, M'Camant, M'Michael, Newlin, Niles, Palmer, H. W., Patterson, D. W., Porter, Purman, Purviance, Sam'l A., Read, John R., Reed, Andrew, Reynolds, Runk, Stanton, Struthers, Woodward, Worrell and Wright—35.

NAYS.

Messrs. Achenbach, Alricks, Andrews, Bally, (Perry,) Baker, Bannan, Barclay, Black, Buckalew, Carter, Cochran, Corbett, Cronmiller, Curry, Curtin, Dallas, De France, Dodd, Dunning, Edwards, Elliott, Finney, Funck, Guthrie, Hay, Hazzard, Horton, Howard, Kaine, Lawrence, Long, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Minor, Mott, Palmer, G. W., Patterson, T. H. B., Purviance, John N., Rooke, Russell, Smith, Henry W., Temple, Wetherill, J. M., Wherry, White, David N., White, Harry, White, J. W. F. and Walker, *President*—51.

So the amendment was rejected.

ABSENT.—Messrs. Ainey, Baer, Bailey, (Huntingdon,) Bardsley, Barr, Bartholomew, Bigler, Brodhead, Broomall, Brown, Campbell, Carey, Church, Clark, Collins, Corson, Craig, Caylor, Darlington, Davis, Ewing, Fulton, Gibson, Gilpin, Green, Harvey, Hemphill, Heverin, Hunsicker, Knight, Lear, MacConnell, MacVeagh, Metzger, Mitchell, Parsons, Patton, Pughe, Ross, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Stewart, Turrell, Van Reed and Wetherill, Jno. Price—47.

Mr. J. N. PURVIANCE. I move to amend the section by striking out all after the word "herewith" in the fourth line to the end of the section. The words to be stricken out are: "Nothing contained in this Constitution shall be held to reduce the compensation now paid to any law judge of this Commonwealth," and upon this motion I desire to have the yeas and nays.

The PRESIDENT. Is the call for the yeas and nays seconded?

Mr. H. W. SMITH. I second the call.

Mr. J. N. PURVIANCE. Mr. President: I see no necessity whatever for this section, that this Convention shall direct the Legislature at its first session to fix the salaries of the judges of this State. I

take it that we have nothing whatever to do with that subject. The Legislature as heretofore will doubtless hereafter always provide liberally for the judges. The clause in this section that I propose to have stricken out limits and restricts the Legislature that they shall fix the salary, but they shall not reduce the compensation in any case.

Now, there is a great irregularity with regard to the salaries of judges throughout this State at the present time. They are receiving much more in some districts than in others; but I believe there is no president judge in the State who receives at this time a compensation less than \$4,000 a year.

As has been remarked by the distinguished gentleman from the city (Mr. Woodward) the compensation of the judges has always been liberally provided for by the Legislature. It commenced within my own memory at a salary of \$1,600 a year. In a few years it went up to \$2,000 a year, about the year 1837 or 1838, I think; soon after it went up to \$2,500 a year; soon after to \$3,000 a year and now to \$4,000. The judges of the Supreme Court of the State received at one time but 1,600 a year. It was afterwards raised to \$3,000, besides a *per diem* of \$3. Subsequently it was increased to something over \$5,000 a year, and now it is up to the sum of \$7,000.

Therefore, I say that the Legislature can always be trusted to fix the salaries of the judges, and it is not right, it is unnecessary to limit and restrict them in this Constitution that they shall at the first session after its adoption fix the salaries of the judges, but they shall not reduce them. They may increase the salaries, but they cannot reduce them. Why tie their hands one way or the other? Give them entire freedom each way, either to reduce or increase if you require them, which is wholly unnecessary, to adjust the salaries at the coming session of the Legislature.

What is the effect? The effect is that when the voters of this Commonwealth are called upon to vote on this Constitution, and when they read this section and they see therein that the salaries of the judges of the Supreme Court are \$7,000; that of president judges \$5,000, \$4,000 and so on, in different localities of the State, and they are called upon to vote that that shall not be reduced, they may on that account vote against the Constitution in many localities where that amount of

salary will be used as an argument, and it will be used by demagogues, perhaps, or those who desire to defeat the Constitution. I say again if we direct the Legislature on this point at all, let us leave them unrestricted as to their action, free to act, either to reduce or raise the salaries; but I take it that the better way will be not to ask the Convention to adopt this section at all. There is no sort of necessity for it. Be that as it may, however, I trust the amendment which I have offered to strike out will prevail, and on that I call for the yeas and nays.

Mr. LITTLETON. I trust this motion will not be agreed to. This portion of the section was placed here after mature deliberation, and I do not think it ought to be stricken out. It should be borne in mind that this but continues the provision of the existing Constitution that the salaries of the judges shall not be diminished during their term of office. If this is stricken out, of course the present Constitution will be repealed to that extent; but it has been so long understood and the law has been so long in existence that I do not think the power should be given to the incoming Legislature after the adoption of this Constitution to violate in spirit the provisions of the existing one. Practically, they can legislate a judge out of office by destroying his compensation.

Mr. BUCKALEW. I desire to appeal to the Convention not to debate over again questions that were fairly debated and decided in committee of the whole upon this schedule. Let us, if possible, during the hour that we have yet, conclude our work upon this schedule. We shall need all the time to-morrow and to-morrow evening and what we have the next day for the report on the ordinance of submission.

I moved this provision in committee. It does not prevent the Legislature from fixing the salaries lower than they are now, next winter or at any time when the Constitution will authorize them to act. All the effect of it is this: The Constitution pledges to the judge that he shall have the same compensation during his term of service, and that it shall not be reduced. This simply retains that provision as to judges now in commission.

The PRESIDENT. The question is on the amendment of the delegate from Butler, (Mr. J. N. Purviance,) on which the yeas and nays have been called for.

The yeas and nays were taken and resulted as follow:

Y E A S.

Messrs. Alricks, Baily, (Perry,) Cochran, DeFrance, Funck, Hazzard, Kaine, Lawrence, Lilly, M'Clean, M'ulloch, M'Murray, Mann, Minor, Purviance, Jno. N., Reynolds, Russell and Smith, Henry W.—18.

N A Y S.

Messrs. Achenbach, Addicks, Andrews, Armstrong, Baker, Bannan, Barclay, Beebe, Biddle, Black, Bowman, Boyd, Buckalew, Calvin, Carter, Cassidy, Corbett, Cronmiller, Curry, Curtin, Cuyler, Dallas, Dodd, Dunning, Edwards, Elliott, Ellis, Fall, Finney, Guthrie, Hall, Hanna, Hay, Horton, Knight, Lamberton, Landis, Littleton, M'Camant, M'Michael, Mantor, Mott, Newlin, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Porter, Purman, Purviance, Samuel A., Read, John R., Rooke, Runk, Stanton, Struthers, Temple, Wetherill, J. M., Wherry, White, David N., White, J. W. F., Woodward, Worrell, Wright and Walker, *President*—64.

So the amendment was rejected.

ABSENT.—Messrs. Ainey, Baer, Bailey, (Huntingdon,) Bardsfey, Barr, Bartholomew, Bigler, Brodhead, Broomall, Brown, Bullitt, Campbell, Carey, Church, Clark, Collins, Corson, Craig, Darlington, Davis, Ewing, Fulton, Gibson, Gilpin, Green, Harvey, Hemphill, Heverin, Howard, Hunsicker, Lear, Long, MacConnell, MacVeagh, Metzger, Mitchell, Niles, Parsons, Patton, Pughe, Reed, Andrew, Ross, Sharpe, Simpson, Smith, H. G., Smith, Win. H., Stewart, Turrell, Van Reed, Wetherill, John Price and White, Harry—51.

The PRESIDENT. The question recurs on the section.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 18. The courts of common pleas in the counties of Philadelphia and Allegheny shall be composed of the present judges of the district court and court of common pleas of said counties until their commissions shall severally expire, and of such other judges as may from time to time be selected.

For the purpose of first organization in Philadelphia, the judges of the court number one shall be Judges Allison, Pierce and Paxson; of the court number two, Judges Hare, Mitchell, and one other

judge to be elected; of the court number three, Judges Ludlow, Finletter and Lynd; and of the court number four Judges Thayer, Briggs, and one other judge to be elected.

The Judge first named shall be the president judge of said courts respectively, and thereafter the president judge shall be the judge oldest in commission.

The additional judges for courts numbers two and four shall be voted for and elected at the first general election after the adoption of this Constitution, in the same manner as the two additional judges of the Supreme Court, and they shall decide by lot to which court they shall belong. Their term of office shall commence on the first Monday of January, 1875.

Mr. J. W. F. WHITE. In harmony with the amendment that I offered to the sixteenth section, I propose to add after the word "commission" in the eleventh line, these words: "Except when the president judge shall be re-elected."

Mr. BIDDLE. I suggest, and I think my friend from Allegheny will agree with me, that the language which I am about to read and will offer, if he will permit me, as a substitute is more specific: "But any president judge re-elected in the same court or district shall continue to be president judge thereof." I think that is more precise. Our idea is the same.

Mr. J. W. F. WHITE. I accept that amendment in place of mine.

The PRESIDENT. The question is on the amendment as modified.

The amendment was agreed to.

Mr. LITTLETON. I move to amend the last paragraph of this section by striking out in the twelfth line the words "voted for and," and by striking out all after the word "Constitution," in the thirteenth line, down to and including the word "belong," in the fifteenth line, and inserting the word "and." I ask the Clerk to read the paragraph as it will stand if my amendment be adopted.

The CLERK read as follows:

"The additional judges for courts numbers two and four shall be elected at the first general election after the adoption of this Constitution, and their term of office shall commence on the first Monday of January, 1875."

Mr. LITTLETON, Mr. President: This amendment simply restores the report of the Committee on Schedule. This provision, if it has any merit at all, should be in the Constitution and not in the schedule, because if it has merit it should

exist for all time, and not simply apply to the first two judges to be elected under the Constitution. Now you place this in the schedule, where there is no opportunity to meet this precise question. It is proper that this provision should be adopted at all by this Convention, its place is in the Constitution properly, where the people of the State have the opportunity practically to vote upon it, but I do think it is highly objectionable coming in the place in which it is proposed here, because it should be borne in mind that the schedule is simply designed to bridge over from the old state of affairs to the new, and we should not to attempt load down this temporary structure with too heavy a weight. We should adopt the report of the committee and not the amendment that was introduced here the other evening.

Mr. BIDDLE. It is very difficult to understand from the amendment of the gentleman from Philadelphia and from his remarks upon it, whether he really means what he says or not. If he means that where there are twelve judges in the city of Philadelphia the minority party shall not have two out of twelve, I can understand it. But he does not say that. Probably he does not like to go that far after the discussion of last night; but if he means that this provision voted in last night is inapplicable in the schedule he is altogether wrong. There is no other place for it. By the judiciary article we have divided the court of common pleas in the city and county of Philadelphia into four courts of three judges each, making twelve, and in the conservative view which has hitherto prevailed in this House we have assigned the ten sitting judges, five in the district court and five in the court of common pleas, to that new court. It became therefore necessary that two judges should be elected, and there is no other place in the Constitution to provide for their election except in the schedule, because necessarily that is a temporary provision, and when the full complement is reached there will be no necessity, of course, for this provision in the schedule. Now, let that gentleman, and let gentlemen who think as he does, come out boldly and say that they intend that only one judge of the ten shall belong to the minority party in this city, and that they will keep all the others on their side. Let him say that, and then we can meet him; but it does seem to me that in this indirect attack upon a

principle which we have accepted with very considerable unanimity, both in the election of two additional judges of the Supreme Court and in the election of two additional judges in the city of Philadelphia, he should remember that this is the proper place for that principle. There is no other part of the Constitution in which it can find place, except just here, because it is here in the schedule that we are bound to provide for the election of these two additional judges.

Mr. LITTLETON. Will my colleague from the city pardon an interruption?

Mr. BIDDLE. Certainly.

Mr. LITTLETON. Does he think that this provision will apply to any other judges to be elected?

Mr. BIDDLE. No, sir.

Mr. LITTLETON. It applies only to these two judges, and dies with them?

Mr. BIDDLE. Yes, sir.

Mr. LITTLETON. What is the use of that?

Mr. EDWARDS. To get a Democratic judge.

Mr. BIDDLE. The use of that is obvious.

Mr. LITTLETON. That is, the gentleman does not believe the Democratic party will live longer than ten years?

Mr. BIDDLE. That is not a question to go into in this place. This Convention has provided for the representation of what the gentleman calls the minority party, giving them two-twelfths or one-sixth of the judiciary of the county of Philadelphia, which contains now nearly one million of population. If any gentleman can stand up here and say that this is an unfair proposition, I can meet him; but it is difficult to meet this indirect argumentation. The gentleman's argument, if it means anything, means only that this provision is out of place in this schedule. He does not go so far, and he will not, because the sense of the House has been too often and too decidedly expressed, as to say that the minority should not be represented upon the bench; but he says that this provision is out of place in the schedule. Now, it is impossible to place the election of these two additional judges by a provision which is necessarily temporary in character, in any other place than in the schedule. If this House mean to say it, let them come out openly and assert that they mean to deprive the people of Philadelphia of having any representation in that court of the minority party. We can understand that; but do

not let them be misled by this indirection into saying that which I am sure they will never say, if the issue is put fairly and squarely before them.

Mr. LITTLETON. If the Convention will indulge me, I will say that I am opposed to this principle in any place where it may be presented, whether in the schedule or in the Constitution. As a citizen of Pennsylvania, I desire to have an opportunity to vote upon that question. I do not want it here, because if the Constitution is adopted the schedule necessarily carries it into effect. I am accused of making an indirect attack. The indirection lies with the gentleman from Philadelphia. He has endeavored to reach indirectly what he could have reached directly. Let him, if he thinks the subject worthy of being placed anywhere in the Constitution, place it there in the body of the instrument and not in the schedule. If it is worth anything at all, it should be extended for all time, and should not be merely made to apply to the first two judges elected under the Constitution. I say it is absurd to make such a special provision. There is nothing reasonable in it. It looks to me more like the character of a dodge than anything else, and I therefore throw back upon the gentleman the whole charge of indirection, and let him answer it as best he may.

The PRESIDENT. The question is upon the amendment.

Mr. LITTLETON. Upon that question I call for the yeas and nays.

Mr. NEWLIN. I second the call.

Mr. LILLY. I would like to hear the amendment read.

The CLERK stated the amendment to be as follows: To strike out in the twelfth line the words "voted for," and all between the word "Constitution," in the thirteenth line, down to the word "their," in the fifteenth line; and before the word "their" to insert the word "and."

Mr. LILLY. Read the last paragraph of the section as it is proposed to amend it.

The CLERK read as follows:

"The additional judges for courts numbers two and four shall be elected at the first general election after the adoption of this Constitution, and their term of office shall commence on the first Monday of January, 1875."

The PRESIDENT. The yeas and nays are ordered and the Clerk will call the names of delegates.

The yeas and nays were taken and were as follows:

Y E A S.

Messrs. Addicks, Beebe, Edwards, Finney, Hanna, Knight, Lawrence, Littleton, Mantor, Minor, Newlin, Niles, Palmer, H. W., Patterson, D. W., Purviance, Jno. N., Reynolds, Stanton, Struthers, White, David N., White, Harry and Walker, *President*—21.

N A Y S.

Messrs. Achenbach, Alricks, Andrews, Armstrong, Baily, (Perry,) Baker, Bannan, Biddle, Black, Buckalew, Calvin, Cassidy, Cochran, Corbett, Cronmiller, Curtin, Cuyler, De France, Dodd, Dunning, Elliott, Ellis, Fell, Funck, Guthrie, Hall, Hay, Hazard, Horton, Kaine, Lambertson, Landis, Lilly, Long, M'Camant, M'Murray, Mann, Mott, Palmer, G. W., Patterson, T. H. B., Purman, Purviance, Samuel A., Read, John R., Rooke, Runk, Russell, Temple, Wherry, Woodward, Worrell and Wright—51.

So the amendment was rejected.

ABSENT—Messrs. Ainey, Baer, Bailey, (Huntingdon,) Barclay, Bardale, Barr, Bartholomew, Bigler, Bowman, Boyd, Brodhead, Broomall, Brown, Bullitt, Campbell, Carey, Carter, Church, Clark, Collins, Corson, Craig, Curry, Dallas, Darlington, Davis, Ewing, Fulton, Gibson, Gilpin, Green, Harvey, Hemphill, Heverin, Howard, Hunsicker, Lear, MacConnell, MacVeagh, M'Clean, M'Culloch, M'Michael, Metzger, Mitchell, Parsons, Patton, Porter, Pughe, Reed, Andrew, Ross, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stewart, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price and White, J. W. P.—61.

Mr. STANTON. I move that the Convention do now adjourn.

The motion was rejected.

Mr. PURMAN. I move that the hour of adjournment be extended until we finish the second reading of the article on schedule.

The motion was rejected.

The PRESIDENT. The question is on the eighteenth section as amended.

The section as amended was agreed to.

The PRESIDENT. The next section will be read.

The CLERK read as follows:

SECTION 19. In the county of Allegheny, for the purpose of first organization under this Constitution, the judges of the court of common pleas shall be the judges of the court number one, and the judges

of the district court shall be the judges of the common pleas number two.

The president judges of the common pleas and district court shall be president judge of said courts number one and two respectively, until their commissions shall expire, and thereafter the judge oldest in commission shall be president judge.

Mr. D. W. PATTERSON. I rise to make the following amendment in line second of the first paragraph. I move to insert after the word "common pleas" the words, "at the time of the adoption hereof;" also in line third, after the words "district court" the words, "at the same date."

Mr. LITTLETON. I suggest that the gentleman call it the "present" instead of using the word "hereof."

Mr. D. W. PATTERSON. The word "present" would apply to the Constitution and not to the court of common pleas.

One word only. The Convention will see that these courts in Allegheny and in Philadelphia counties do not become organized under this Constitution until the first Monday of January, 1875. I move to insert these words in order to fix the present judges in these courts at the adoption of this Constitution, in order to prevent legislation upon the subject. There may be legislation intervening in the existing year which would upset the intention of this Convention. This amendment only applies to the judges now elected, and it would apply to no other than to the judges of the existing courts.

The PRESIDING OFFICER. [Mr. Lambertson in the chair.] The Clerk will read the section as it is proposed to be amended.

The CLERK read as follows:

"In the county of Allegheny, for the purpose of first organization, under this Constitution, the judges of the court of common pleas, at the time of the adoption hereof, shall be the judges of the court number one, and the judges of the district court, at the same date, shall be the judges of the common pleas number two.

The president judges of the common pleas and district courts shall be president judge of said courts number one and two, respectively, until their commissions shall expire; and thereafter the judge oldest in commission shall be president judge."

Mr. ARMSTRONG. I move to amend the amendment by saying, instead of "hereof," "of this Constitution," and striking out the words, "under this Constitution."

Mr. D. W. PATTERSON. That will do. I accept that amendment.

The PRESIDING OFFICER. The question is upon the amendment.

The amendment was agreed to.

Mr. J. W. F. WHITE. I move the same amendment at the end of the seventh line which was made to the end of the eleventh line in the previous section, and ask that the Clerk read it.

The CLERK read as follows:

"And any president judge re-elected in the same court or district shall continue to be president judge thereof."

The amendment was adopted.

The PRESIDING OFFICER. The question recurs on the adoption of the section as amended.

The section as amended was agreed to.

The PRESIDING OFFICER. The Clerk will read the next section.

The CLERK read as follows:

SECTION 20. The organization of the court of common pleas, under this Constitution, for the counties of Philadelphia and Allegheny, shall take effect on the first Monday of January, 1875, and existing courts in said counties shall continue with their present powers and jurisdiction until that date, but no new suits shall be instituted in the court of Nisi Prius after the adoption of this Constitution.

Mr. BIDDLE. I suggest that in the first line you add an "s" to the word "court," making it "courts."

The PRESIDING OFFICER. That will be done, and the question is upon the section with that modification.

The section was adopted.

The PRESIDING OFFICER. The Clerk will read the twenty-first section.

The CLERK read as follows:

SECTION 21. The causes and proceedings pending in the court of Nisi Prius, common pleas and district court in Philadelphia, shall be tried and disposed of in the court of common pleas.

The records and dockets of said courts shall be transferred to the prothonotary's office of said county.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 22. The causes and proceedings pending in the court of common pleas in the county of Allegheny shall be tried and disposed of in the court number one; and the causes and proceedings pending in the district court shall be tried and disposed of in the court number two.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 23. The prothonotary of the court of common pleas of Philadelphia shall be first appointed by the judges of said court, on the first Monday of December, 1875, and the present prothonotary of the district court in said county shall be the prothonotary of the said court of common pleas until said date when his commission shall expire, and the present clerk of the court of oyer and terminer and quarter sessions of the peace in Philadelphia, shall be the clerk of such court until the expiration of his present commission on the first Monday of December, 1875.

The section was agreed to.

Mr. D. W. PATTERSON. I move that the Convention now adjourn. ["No!" "No!"]

The PRESIDING OFFICER. [Mr. Lamberton in the chair.] The question is on the motion of the gentleman from Lancaster.

The motion was not agreed to.

The PRESIDING OFFICER. The Clerk will read the next section.

The CLERK read as follows:

SECTION 24. In cities containing over fifty thousand inhabitants, except Philadelphia, all aldermen in office at the time of the adoption of this Constitution shall continue in office until the expiration of their commissions, and as their terms of office shall expire, one alderman shall be elected in each ward as provided in this Constitution.

Mr. S. A. PURVIANCE. I offer a substitute for the section which simply puts it in better language. I have conferred with the Allegheny delegation and showed it to them, and it suits them. I move to substitute the following:

"In cities containing over fifty thousand inhabitants, except Philadelphia, all aldermen in office at the time of the adoption of this Constitution shall continue in office until the expiration of their commissions, and at the election for city and ward officers in the year 1875 one alderman shall be elected in each ward, as provided in this Constitution."

Mr. T. H. B. PATTERSON. I will simply say that this form of the section has been prepared by the action of the whole delegation from Allegheny county and it suits them.

Mr. HAY. I would not have said one word, and I do not rise now for the pur-

pose of opposing the adoption of this substitute, but in view of what my colleague said, I desire to say that while I think this change is necessary if the section as amended last night is agreed to, yet I do not change my opinion that the section as first reported is the best section.

The PRESIDING OFFICER. The question is on the amendment of the gentleman from Allegheny (Mr. S. A. Purviance.)

The amendment was agreed to.

The section as amended was agreed to.

The CLERK read the next section, as follows:

SECTION 25. In Philadelphia, "magistrates" in lieu of aldermen, to be elected under this Constitution, shall be chosen at the election in said city for city and ward officers in the year 1875; their term of office shall commence on the first Monday of April succeeding their election.

The term of office of aldermen in said city, holding or entitled to commissions at the time of the adoption of this Constitution, shall not be affected hereby.

Mr. J. R. READ. I move to amend in the first line by inserting after the word "aldermen" the words "for each thirty thousand inhabitants."

I think it is open to a construction different from what I am sure is the intention of this Convention, and that is that at the first election there shall be a magistrate for each thirty thousand inhabitants elected upon general ticket. By the last paragraph of this section it is provided that "the term of office of aldermen in said city, holding or entitled to commissions at the time of the adoption of this Constitution, shall not be affected hereby."

I am in entire harmony with that part of this section, and my purpose in moving the amendment is simply that at the first election we shall elect the magistrates for each thirty thousand inhabitants, and that no construction may be placed upon it to the effect that the magistrates shall be elected only for the number of aldermen whose commissions have expired at the time of the election. That is all. I think it perfects the section and makes it mean what we intend it to mean, and relieves it of a construction that might be placed upon it. I think the paragraph as it stands is in conflict with the Constitution.

Mr. LITTLETON. I suggest to the gentleman that his object would be better attained by striking out the words "in lieu

of aldermen." Then it will simply say, "In Philadelphia magistrates, to be elected under this Constitution, shall be chosen, &c."

Mr. J. R. READ. I will agree to that. I move to strike out the words in the first line, "in lieu of aldermen."

Mr. LITTLETON. The Constitution calls for the number of inhabitants that shall be entitled to such officers.

The PRESIDING OFFICER. The question is on the amendment of the gentleman from the city (Mr. J. R. Read) to strike out the words, "in lieu of aldermen."

Mr. LITTLETON. That makes it more specific.

Mr. BIDDLE. It only makes it more ambiguous.

Mr. BUCKALEW. This change evidently ought not to be made.

The amendment was rejected, the yeas being eighteen—less than a majority of a quorum.

The PRESIDING OFFICER. The question recurs on the section.

Mr. LITTLETON. I wish to call the attention of the Convention to this proposed amendment which has just been voted down. If you continue the term of the present aldermen and those entitled to commissions, the magistrates elected are not elected in lieu of the aldermen, so that it is not only ambiguous but it is incorrect. The magistrates are elected because they are provided for in this Constitution and not in lieu of the aldermen.

The PRESIDING OFFICER. The question is on the section.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 26. All persons in office in this Commonwealth at the time of the adoption of this Constitution, or any part thereof, shall hold their respective offices until the term for which they have been elected or appointed shall expire, unless otherwise provided in this Constitution, or necessary to carry into effect its provisions.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 27. The seventh article of this Constitution prescribing an oath of office shall take effect on and after the first day of January, 1875.

The section was agreed to.

Mr. J. N. PURVIANCE. Mr. President: I have an objection—

The PRESIDING OFFICER. The next section will be read.

The CLERK read as follows :

SECTION 28. County commissioners and county auditors shall be elected under this Constitution at the general election in the year 1875, and such officers in office at the time of the adoption of this Constitution shall continue until their successors are duly qualified, at which period the terms of those in office shall expire."

Mr. J. N. PURVIANCE. I tried to get the ear of the Chair, but in the confusion was cut off. I have an objection to the section just acted on. I cannot see how the election officers can take this oath.

The PRESIDING OFFICER. The section has passed and can only be reached upon this reading by reconsideration. The question is on the section which has just been read.

Mr. BUCKALEW. I move to amend, by inserting at the end the words, "and the office of jury commissioner is hereby abolished."

Mr. President: I am indifferent on this subject myself. My attention was called to it to-day by the gentleman from Potter, (Mr. Mann,) and it was before the Convention on a former occasion. But by the abolition of jury commissioners the duty of selecting jurors in the various parts of the State will devolve upon the county commissioners, who will be more likely to perform this work in a manner satisfactory to all parties. It will be seen that they are not chosen for this particular work; it will be a mere incident of

their duties. I know that in some sections of the State this system of jury commissioners is very unpopular among the people.

Mr. D. W. PATTERSON. I never heard of that before.

Mr. BUCKALEW. I know of one case where the partner of a leading member of the bar in a county managed to get on the board of jury commissioners, and it became a matter of reproach and scandal that the juries were formed with reference to cases before the court in which this gentleman was counsel for one party or the other.

Mr. H. W. PALMER. I do not know what it may be in other sections of the State, but I know that in Luzerne the system has worked very well and the people would dislike to see it abolished. The county commissioners would be a partisan board, and we should be more likely to have partisan juries than under the present system, and it would not help the matter for the president judge to sit with the county commissioners, for it would make either a majority of three to one or a tie vote.

Mr. BUCKALEW. This question was referred to when we agreed to the provision as to county commissioners in the article on county officers.

SEVERAL DELEGATES called for the orders of the day.

The PRESIDING OFFICER. The hour of ten having arrived, the Convention stands adjourned until to-morrow morning at half-past nine o'clock.

ONE HUNDRED AND SEVENTY-SIXTH DAY.

THURSDAY, October 30, 1873.

The Convention met at half-past nine o'clock A. M., Hon. John H. Walker, President, in the Chair.

ART RECEPTION.

The PRESIDENT laid before the Convention the following communication, which was read :

"UNION LEAGUE" HOUSE, }
Philadelphia, October 29, 1873. }

HON. JOHN H. WALKER,
President of Constitutional Convention:

DEAR SIR: The officers and members of the Convention are respectfully invited to the Art Reception, now open at the Union League House, Broad street.

Very respectfully yours,

JAMES L. CLAGHORN,
Chairman of Committee.

Mr. NEWLIN. I move that the invitation be accepted, with the thanks of the Convention.

The motion was agreed to.

EXECUTIVE COMMITTEE.

Mr. NEWLIN. I offer the following resolution :

Resolved, That an executive committee of fourteen members be appointed by the Chair to take such measures as may be proper to give due publicity to the provisions of the new Constitution: *Provided*, That no expense be incurred without the order of the Convention.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted forty-three in the affirmative—the negative not counted.

So the resolution was ordered to be read the second time.

Mr. NEWLIN. I had the honor last April of offering a resolution of this kind, to provide for the creation by this body of a standing executive committee, the object of that committee being to give publicity to the work of this body, and in that manner to secure the due consideration of it by the people at the general election. That resolution lay over until September, when I called it up again, but

the House was not willing to consider it. We are now within perhaps a day or two of the adjournment, and it is highly important, if this committee is to be created, that it be done at once. The Convention will observe that the resolution defines the object to be secured in creating the committee. It is not to be an indefinite body. It is not to be a body with unlimited or undefined powers. It is simply to be a committee instructed to take such measures as may be proper to secure publicity to the work of our Convention, and it is also provided, as a matter of caution, that no expense shall be incurred, except by the order of this body; and that is the reason, too, why this resolution should be adopted now, in order that the committee may be appointed and go over the ground to see what may be necessary to be done and report to the Convention before its adjournment, so that action may be taken upon its report.

It is well known that very little of what we have done has been made public. People do not follow the newspaper reports of our doings. When we adjourned in the summer there was printed a beggarly amount of three thousand copies of the Constitution as it had passed second reading. Now, three thousand copies, to be divided amongst four millions of people, is ridiculous in the extreme. If we want the amended Constitution adopted, the merits of what we have done here must be made public and the people must know the changes we have made for their good. We are well aware that there will be active hostility from very many quarters to what we have done, and we also know that a great many active men on both sides of the political house are resolutely opposed to everything that we have done. There are organized committees of both those parties, and they are in a condition to actively show their hostility to our work; and it seems to me that this body should be in a condition to take similar steps in defence of their own work.

Outside of that consideration, there is this: We shall no doubt order a large

edition of the Constitution and of the Address which was ordered to be prepared a few days ago. Those documents cannot be printed until this body shall have adjourned, and some one must attend to their distribution.

Again, the committee could correspond with every member of the Convention in his respective locality. The members residing in each Senatorial district could constitute a local committee, and they could correspond with this general committee on the subject in hand; and in that way there would be a general interchange of views; there would be a concert of action, and there would be such publicity to the proper and laudable amendments which have been made in the Constitution as will undoubtedly secure for it the endorsement of the people.

Mr. LILLY. Mr. President: Probably the resolution is very proper, but it seems to me that it is too small and too narrow in its object. I move to amend the resolution, by striking out "fourteen" and inserting "thirty-three," or one from each Senatorial district; and then another amendment I would add, "and to do such other things as may be necessary."

The PRESIDENT. The delegate from Carbon moves to amend by striking out "fourteen" and inserting "thirty-three," and adding to the end of the resolution, "and to do such other things as may be necessary."

Mr. NEWLIN. I desire to say a word on the amendment of the gentleman from Carbon. A great many gentlemen on this floor have been members of the State Central Committees of the two political parties, and they have been members, most of them, of local committees; and it must be patent to every man of experience that a large committee cannot properly do the work which is intended to be done here. Suppose we have a committee of thirty-three, that will require seventeen members to be here to form a quorum. Now, are seventeen gentlemen going to stay for that work always here, to be on hand to carry out these minor details of distributing copies and things of that kind? Are they going to come from all parts of the State and stay here, seventeen of them, so as to make a quorum? I think a committee of that number would be too large.

Then as to the other amendment proposed by the gentleman from Carbon, it is too indefinite. I do not think it is wise

that the committee be created with indefinite powers. The power given in the original resolution is to cause due publicity to be given, and the expense of it is to be regulated by this House; and that covers, it seems to me, the whole ground, and a committee of thirty-three would be too large entirely.

Mr. STEWART. I desire to call the attention of the Convention to the fact that the act of Assembly provides the manner in which publicity is to be given to our work. It requires that it shall be published for at least four weeks in the papers of each county of the Commonwealth. Now, I cannot see the necessity of a committee for that purpose.

Mr. NEWLIN. I will answer the gentleman that that very publicity could be done through this committee. Some one will have to attend to it; it will not publish itself.

Mr. STEWART. I understand that the act of Assembly requires publication for a certain number of times in two newspapers in each county of the Commonwealth where there are two published in a county. Now, the purpose of this committee cannot be anything else than to determine what papers this new Constitution is to be published in.

Mr. NEWLIN. Allow me to ask the gentleman from Franklin a question. Who is to order the publication? Who is to see that it is done after this body shall have adjourned?

Mr. STEWART. The officers of the Convention. There is no occasion whatever for a committee to do this work; or if there is any occasion for one at all, there is no necessity for making the committee so large as thirty-three.

Mr. MINOR. The question asked by the gentleman from Franklin and the gentleman from Philadelphia is answered in the act of Assembly. There is an express provision by statute that our work shall be remitted to the Secretary of the Commonwealth, by him recorded, and then that he shall see that it is published at least four weeks in two papers in every county of the State where two papers are published. The whole thing then—where it is to be done, the length of time, the number of papers, the person who is to do it—all are all provided for now by statute.

I can see, therefore, no occasion for the committee or any of the duties that it is proposed to impose upon them. And I

will take the liberty here of suggesting that we seem to have lost sight of this in our action fixing the time of the submission of the Constitution to an election. We must be very careful, or our adjournment will be at such a time as will not permit the Secretary of the Commonwealth to get the Constitution to the newspapers so that he can publish it four weeks before the day of election. The whole thing is provided for by statute, at all events so far as printing is concerned; and what we have to do is simply to give time enough for the Secretary of the Commonwealth to have it published as directed.

Mr. STEWART. Do I understand the gentleman to say by what authority the publication is to be made?

Mr. MINOR. By the Secretary of the Commonwealth, according to section four of the statute of April 11, 1872.

Mr. HARRY WHITE. I merely rise to call the attention of the Convention to the fact that this matter is of more than passing importance. The discussion here has elicited the fact that it is contemplated in effect to regulate the publication of our work among the people of the Commonwealth. This is an exceedingly delicate matter, and I apprehend the Convention ought to pause before committing itself to the policy of entrusting to a committee the publication of our proceedings. I am averse to it, particularly as there has been before the House a reasonable resolution which provided for the issuing of an address and also for the presentation of our work to the voters of the Commonwealth, by a committee to be composed of one for each Senatorial district. I think anything less than that is unwise. I for one shall have something to say about our work in the district in which I reside, and I suppose every other gentleman here desires to do the same thing in his district. My resolution was postponed. I have not called it up, but I can call it up I presume. I do confess that there are difficulties surrounding this matter which are hard to overcome, and it is very difficult to provide for it to general satisfaction. Jealousies exist throughout the State; and on a review of the whole matter I have come to the conclusion that it is unwise to have a committee for the purpose here contemplated, and as far as I am concerned I am going to vote against it.

Mr. WHERRY. I do not know whether I am in favor of the creation of this committee or not. If I can be shown good reasons for it, I shall certainly vote for its creation, but it occurs to me that the proper persons to take charge of this publication are the chairmen of the several standing committees. They are the parties who know and understand the work more thoroughly than any committee we can possibly raise, and they are the gentlemen who of all the members of the Convention have the greatest amount of interest in the proper publication of the Constitution. I move to amend this resolution by striking out "fourteen" or "thirty-three," as suggested, and substituting "the chairmen of the respective standing committees."

The PRESIDENT. It is moved to amend the amendment, by striking out both the original and the amendment and inserting in lieu thereof a reference to the chairmen of the standing committees.

Mr. HOWARD. Mr. President: I do not agree to either the original resolution or the substitute. I understood that the delegate from Indiana had offered a substitute providing for the publication of the Constitution in pamphlet form. I do not know how he intends to circulate it. I have received several communications on this subject from newspaper men, those who publish newspapers of large circulation, and they say distinctly that they will not give any facility to circulate a document such as I believe is contemplated by the substitute of the delegate from Indiana. If we choose to employ the State Printer or anybody else to publish the Constitution in pamphlet form, we shall have to circulate it ourselves; and we ought not to ask the newspaper men to circulate this with their papers. I believe it is right and proper to give the publishing of the Constitution to the publishers of the press throughout the Commonwealth; that that is the true way to get it before the people; and by so doing we interest the press in our work. I think this committee ought to be appointed differently from the mode suggested by the original resolution, and if that is voted down I shall suggest the propriety of adopting a resolution like this:

Resolved, That a committee of thirty-three be selected by the delegates representing the several Senatorial districts of the State who shall, from the body of the

Convention, select an Executive Committee of five, whose duty it shall be to attend to the publication of the Constitution and any other matter for the information of the people upon the subject, and to report to the Convention at Harrisburg."

This will give a committeeman from every Senatorial district, or rather, for each Senator, and then that body of thirty-three, not from their own number, but from the body of the Convention, will select a committee of five, whose duty it shall be to give information to the people and to take charge of our work. It seems to me that is the fair way and the way this thing should be done. Then the whole body of the Convention will be represented by this committee of thirty-three, who will take care in the selection of these five men, and the five men selected in this way will give this information to the people. I think that will be the best mode.

Right here, Mr. President, allow me to say that while the act of Assembly requires the Secretary of the Commonwealth to publish in two newspapers, it does not prevent the publication in more than two newspapers. The language is "in at least two newspapers," and the fact that the Secretary of the Commonwealth, by the act of Assembly, is required to publish in at least two newspapers does not prevent in any way the enlargement of that power. It allows a discretion that it may be published under those terms in all the papers of the Commonwealth. I would publish it, and it would be money well spent if we were to do so, in at least five daily newspapers in Philadelphia, in at least five daily newspapers in Pittsburg, and then in every other daily newspaper published in the Commonwealth, and in every county where they have not dailies at least twice in their weeklies. In that way we shall be sure to reach the people, and we shall be sure to get a friendly word with that publication from the editors of newspapers, who certainly are a body of great intelligence and great power in this Commonwealth. As a matter of policy, we ought to adopt this mode, and I hope it will be adopted by the Convention.

The PRESIDENT. The question is on the amendment of the delegate from Cumberland (Mr. Wherry.)

Mr. NEWLIN. I desire to say a single word in answer to the objection about the newspapers. If the amendment—

Mr. TEMPLE. I rise to a question of order. The gentleman has spoken on this subject.

Mr. NEWLIN. I have not spoken on this pending amendment.

Mr. ANDREW REED. I desire to submit a motion to postpone this subject for the present. We have already spent too much time upon it. After we have disposed of the ordinance we can take up this matter again.

Mr. NEWLIN. I have the floor for an explanation. As soon as I have made it, the gentleman can make his motion.

Mr. MACCONNELL. I hope this matter will be postponed for the present at least. We are within almost a single day of the time of adjournment.

The PRESIDENT. The motion to postpone has precedence.

Mr. DALLAS. I rise to a point of order. No motion is in order while the gentleman from the city (Mr. Newlin) is on the floor.

Mr. NEWLIN. I was addressing the House, and I think it in bad taste for the gentleman from Mifflin to insist on his motion while I was addressing the House.

Mr. ANDREW READ. The gentleman has spoken.

Mr. NEWLIN. I have spoken, and I intend to speak now on this motion.

Objection is made to this resolution because it is supposed that this committee of fourteen is to say what newspapers the publication of the Constitution is to be made in. If these two amendments are voted down and the original resolution is adopted, gentlemen will see that that cannot happen for this reason: the original resolution provides that no expense shall be incurred without the order of this House. Now, to publish in newspapers means to incur expense, and that cannot be incurred without the order of the House, and the House making that order can take such measures and orders as it sees fit as to what papers the Constitution shall be published in. I therefore hope that this matter will be acted upon now.

Mr. J. N. PURVIANCE. I second the motion of the delegate from Allegheny (Mr. MacConnell) to postpone this question for the present.

Mr. MACCONNELL. I did not make the motion. It was made by the gentleman from Mifflin (Mr. Andrew Read.)

The PRESIDENT. It is moved and seconded that the further consideration of the pending resolution and amendments be postponed for the present.

Mr. NEWLIN. I move to make the postponement indefinite, which is a debatable motion, in order to allow the delegate from the city (Mr. Woodward) to speak upon it.

The PRESIDENT. That motion has precedence.

The question being put, there were, on a division, ayes 54.

Mr. NEWLIN. I call for the yeas and nays.

Mr. WOODWARD. I second the call.

Mr. NEWLIN. I withdraw the motion to postpone indefinitely.

Mr. HARRY WHITE and Mr. TEMPLE. It is too late; a vote has been taken and the yeas and nays called for.

Mr. NEWLIN. It is not too late; no vote has been announced upon it. I ask for a decision of the Chair on that point.

The Chair thinks the gentleman may withdraw it.

Mr. DARLINGTON. I renew it.

The PRESIDENT. The motion is renewed, and the Clerk will call the names of delegates.

Mr. HOWARD. What are we voting on?

The PRESIDENT. On the motion to postpone indefinitely.

The yeas and nays, which had been called for by Mr. Darlington and Mr. Bardsley, were taken, and were as follows:

YEAS.

Messrs. Achenbach, Addicks, Ainey, Andrews, Armstrong, Bannan, Barr, Boyd, Brown, Clark, Collins, Corbett, Cronmiller, Darlington, Dunning, Edwards, Elliott, Ellis, Ewing, Fulton, Hall, Hanna, Hazzard, Hemphill, Howard, Hunsicker, Lamberton, Long, MacConnell, M'Camant, M'Clean, Mann, Minor, Mott, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Porter, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Ross, Runk, Russell, Simpson, Smith, Henry W., Struthers, Turrell, Wherry, White, David N., and Walker, *President*—55.

NAYS.

Messrs. Alricks, Bally, (Perry,) Bailey, (Huntingdon,) Baker, Barclay, Bards-

ley, Beebe, Biddle, Black, Bowman, Brodhead, Buckalew, Calvin, Campbell, Carter, Church, Cochran, Curry, Dallas, De France, Funck, Gibson, Gilpin, Guthrie, Hay, Horton, Knight, Lawrence, Lilly, Littleton, M'Michael, M'Murray, Mantor, Newlin, Patton, Pughe, Purinan, Sharpe, Smith, Wm. H., Stewart, Temple, Van Reed, Wetherill, J. M., White, Harry, Woodward, Worrell and Wright—47.

So the motion to indefinitely postpone was agreed to.

ABSENT.—Messrs. Baer, Bartholomew, Bigler, Broomall, Bullitt, Carey, Cassidy, Corson, Craig, Curtin, Cuyler, Davis, Dodd, Fell, Finney, Green, Harvey, Heverin, Kaine, Landis, Lear, MacVeagh, M'Culloch, Metzger, Mitchell, Niles, Read, John R., Smith, H. G., Stanton, Wetherill, John Price and White, J. W. F.—31.

COPY OF CONSTITUTION FOR HISTORICAL SOCIETY.

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

Resolved, That a copy of the Constitution as ordered to be printed on parchment, and to be signed by the members of the Convention, be presented to the Historical Society of Pennsylvania to be preserved among its archives.

PUBLICATION OF THE CONSTITUTION.

Mr. COCHRAN offered the following resolution, which was read twice and considered:

Resolved, That in the opinion of this Convention it is very important that the Constitution adopted by it should be published in more than two newspapers in each county, and that the Secretary of the Commonwealth be requested to have it published not more than in three consecutive issues of every secular newspaper in the State, for such reasonable charge for the service as he may first establish for each class of papers.

Mr. J. N. PURVIANCE. I move to amend by striking out "in more than two newspapers," because there is no indication on the part of this body that that should be done.

Mr. COCHRAN. I think if the gentleman from Butler had heard the resolution read, he would not have found that amendment to be necessary. The resolution commences by stating that in the opinion of this Convention it is important that the Constitution should be published

in more than two newspapers in each county. Then it goes on to request the Secretary of the Commonwealth to publish it in every secular newspaper in the State, in not more than three consecutive issues, at such reasonable price as he previously shall have determined on for the service. I merely wish to say that the whole purpose I have in view is to obtain a free circulation of the Constitution, for a brief time, in the newspapers of the State, in the expectation of, in that way, reaching the largest number of people. I do not think, under the circumstances in which we are placed, that we can do better than that. The resolution is merely recommendatory. I merely desire to call the attention of the Secretary of the Commonwealth, in this way, to the wish of the Convention, because I believe he would respect that wish.

Mr. J. N. PURVIANCE. I merely want to call the attention of the Convention to the fact that we have proposed to refer this subject to a committee, and that if we request the Secretary of the Commonwealth to publish the Constitution in more than two newspapers in a county we should specify how many, or it may be supposed we desire it published in all.

Mr. STEWART. I want to remind the gentleman from York that the act of Assembly which called us into existence requires the publication of the Constitution as we frame it in two newspapers in each county for at least four weeks. His resolution I understand to name three weeks.

Mr. DARLINGTON. That does not matter. We are a law unto ourselves.

Mr. COCHRAN. I will modify my resolution by leaving out the word "secular." In regard to the three weeks publication, it is only recommendatory; and the Secretary of the Commonwealth may, if he chooses, order it to be published in two newspapers in each county for four weeks. I am in favor of publication for three weeks, believing that such publication will be all that is necessary. Twelve publications in a daily newspaper would certainly answer.

Mr. STEWART. Does not the act of assembly which provided for the calling of this Convention require that the Constitution as amended by this Convention shall be published four weeks in two newspapers in each county? If that is so, then does not this resolution advise the Secretary of the Commonwealth to violate an act of Assembly?

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

The amendment was rejected.

The PRESIDENT. The question recurs on the resolution.

Mr. LITTLETON. I think before we discuss the mode and propriety of advertising the Constitution, we ought to make it. This is all premature. We ought to go on and finish our work, and after that is done we can arrange for the publication of it afterward. Therefore I move to postpone the further consideration of the subject for the present.

The motion was agreed to.

COMPENSATION OF POWELL DE FRANCE.

Mr. BOWMAN offered the following resolution which was read twice and considered:

Resolved, That the compensation of Powell De France, for services in the coat room, be increased two hundred dollars.

Mr. BOWMAN. One word of explanation. This young man has been at this post since the organization of this Convention in Harrisburg. He has attended to the duties of the coat room and to the business of this Convention. There is not a gentleman on this floor who has not availed himself of the services of this young man. He has been paid a compensation, up to the present time, of ten dollars per week.

Mr. HAY. That is a mistake.

Mr. BOWMAN. Two dollars per day, for five days in the week.

Mr. HAY. He has been paid twelve dollars per week.

Mr. BOWMAN. The chairman of the Committee on Accounts and Expenditures perhaps knows more about what he has been paid than I do, and I will not dispute that fact with him. But take the amount he has named and it will just about pay his ordinary expenses, and that is all. He has not only attended the coat room and preserved the property of the members so well that I believe nothing has been lost, but he has been here day and night in attendance upon the coat room until the committees have completed their sessions, removed their property and left the building; and besides all this he has been running errands for almost every member of this body since we have been in session in this city, during the past eight months. What he has received will barely pay his proper expenses. "The laborer is worthy of his

hire," and he ought to have a fair compensation. The passage of this resolution will only give him what other attendees and employees of this Convention are receiving for their services. I hope that gentlemen in this Convention will do justly by a faithful servant, which this young man has been from the commencement, as I think every gentleman here will bear me witness.

Mr. HAZZARD. I would like to inquire of the chairman of the Committee on Accounts and Expenditures what has been the compensation allowed the young man?

Mr. HAY. Powell De France, in obedience to the orders of the Convention, has been paid a salary of two dollars per day, and the compensation has been given for six days in the week, it having been necessary for him to be here on Saturdays to wait upon committees and members who were here on that day in performance of their several duties.

Mr. HOWARD. Two dollars per day while the body was in session?

Mr. HAY. Twelve dollars per week, not including the adjournment during the summer.

Mr. HOWARD. That does not include the adjournment?

Mr. HAY. Certainly not.

Mr. HOWARD. I am perfectly satisfied that this increase to this young man is very reasonable and very moderate. I have no doubt that he has performed service, invaluable perhaps, to the Convention, equal to some officers who have received a much larger compensation. He will have a very small compensation even when we add this sum of two hundred dollars, and I hope it will be very cheerfully accorded to him.

Mr. DARLINGTON. I have no wish to interfere with the benevolent intentions of gentlemen of this Convention. I have a great regard for this young man, who is a well-behaved young man, and whatever is right for him to have, I am willing he should have; but I prefer that this should be done by some system, and I therefore move to refer this resolution to the Committee on Accounts and Expenditures, in order that they may inquire whether there is any other young man about the House who ought to be additionally paid or not, and if so, how much.

The PRESIDENT. It is moved to refer the resolution to the Committee on Accounts.

Mr. HAY. I am not willing, for one, that this proposition or any similar proposition shall be referred to the Committee on Accounts. It is for the Convention itself to determine what the compensation of its employees shall be. The compensation of none of the employees has been fixed by the Committee on Accounts, and the committee will not undertake any such duty. While I am very desirous that every one of the officials of this Convention should be fully and properly paid for all services rendered, yet I will not at this stage of the proceedings of this body vote to increase compensation for services which have been already rendered. I am not willing to do anything which will stain the closing hours of this body, and I believe the tendency of such things is to create a just prejudice against any body that is guilty of such actions.

So far as the compensation of this young gentleman is concerned, I would be very willing that he should receive the fullest possible just allowance for his services. I believe his services have been faithfully rendered, but I also believe that they have been, while moderately, yet sufficiently paid for. Therefore I shall vote against the resolution and against any reference of it. It would be very unjust to throw this resolution, which is brought directly to the action of the Convention itself, into the hands of a committee. Let it be determined here.

Mr. BOWMAN. One word in relation to the motion of the gentleman from Chester. He proposes to refer this resolution to the Committee on Accounts, for the ostensible purpose of ascertaining whether or not there may not be other employees about the Convention entitled to additional compensation. Now, sir, I want this young man's case to stand upon its own merits. If it has any merits at all, I think his claim should be regarded in that light; if not, reject it; but do not attach it to anything else. As the chairman of the Committee on Accounts declines to pass upon this claim, I think the Convention should settle it as it has settled all other similar claims as they have been presented.

One word further. The gentleman from Allegheny, the chairman of the Committee on Accounts, says he believes this young man has been justly paid. He has been paid no more than his legitimate expenses, four hundred miles from home. He could not get his

board for less than ten dollars a week. He has necessarily incurred incidental expenses. He has contributed his time and his services here without receiving one single cent over and above his expenses. If that is just, let us say so, and then raise the pay of some other officer. Let us open the bung-hole and stop up the spigot! That is what we are trying to do! I hope gentlemen will look at this question fairly and honestly, and give this young man what I believe, and what I think every delegate present believes, is his just due.

The PRESIDENT. The question is on the reference of the resolution to the Committee on Accounts.

The motion to refer was not agreed to.

Mr. LITTLETON. I move the indefinite postponement of the resolution. This evidently is but a beginning, and we shall soon have other demands of a like nature. I think that persons who have taken positions in this Convention knowing the rate of compensation, should be held to it.

The PRESIDENT. The question is on the indefinite postponement of the resolution.

The motion to postpone was agreed to.

PRINTING OF THE CONSTITUTION.

Mr. ALRICKS. I offer the following resolution—

Mr. MACCONNELL. I do hope that gentlemen will let us get to work and finish the Constitution and then we can take up these other matters afterwards.

The PRESIDENT. If delegates will offer resolutions, the Chair must receive them. The resolution will be read.

The CLERK read as follows:

“Resolved, That before the Constitution is printed on parchment, it shall be printed on paper and laid on the desks of members for examination and correction.”

The resolution was ordered to a second reading and read the second time.

Mr. ALRICKS. I have every confidence in the Committee on Revision, but this job is to be artistically executed, and it is highly desirable that the members of the Convention should have an opportunity of seeing and reading it before it is printed upon parchment. It is likely to cost us a large sum of money, and at all events, whether it is the same or a different copy, I think the members of the Convention should have an opportunity of examining it before it is the permanent form of parchment.

Mr. HAY. I think it is only necessary to call the attention of the delegate who offered this resolution and the attention of other members of the Convention to one fact to show that no such resolution as this is at all necessary at this time. A resolution has already been adopted by this Convention by which the Committee on Revision and Adjustment are required to report to the Convention every change which they make, and their reports will probably be in printed shape and will be laid on the desks of members when they are presented.

Mr. ALRICKS. I withdraw the resolution.

The PRESIDENT. The resolution is withdrawn.

SUBMISSION OF ARTICLE ON LEGISLATION.

Mr. MANN. I move to proceed to the consideration of the schedule.

Mr. BUCKALEW. I desire to go on with the regular order for a short time.

The PRESIDENT. If there are no further resolutions, reports of committees are in order.

Mr. HARRY WHITE. I offer the following resolution, which I desire to have laid on the table for the present:

“Resolved, That the article entitled ‘Legislation,’ and designated as No. 3, be submitted for a separate and distinct vote at the same time the amended Constitution is submitted.”

The resolution was laid on the table.

CIVIL RIGHTS.

Mr. HARRY WHITE. I offer the following resolution, which I ask to have referred to the Committee on the Declaration of Rights:

“Resolved, That the following be added as an additional section to the article entitled Declaration of Rights:

“That no law shall be made or enforced within this Commonwealth that discriminates in favor of any class of persons by reason of color or race; and all public institutions, educational or otherwise, all places for public amusement, or for accommodation of travellers, shall be open to and enjoyed by all persons on equal terms.”

Mr. HAY. I rise to a question of order.

The resolution will be referred to the Committee on the Declaration of Rights.

THE FORTY-THIRD RULE.

Mr. BUCKALEW. I have delayed for many days, at the instance of several gentlemen, calling up the resolution that I offered a month ago to rescind the forty-third rule. This is the last opportunity I shall have to move to take it up. I therefore move to take it up now. It relates to business that we shall have to transact to-day.

The PRESIDENT. It will be read for information.

Mr. MANN. That motion requires a suspension of the rules, and I trust the rules will not be suspended in order to take up a resolution at this time.

Mr. KAINE. It is the regular order.

Mr. MANN. No, sir. "Reports and resolutions may, on motion, be considered" is the fifth order of business.

Mr. HARRY WHITE. Does the Chair decide that it comes up now?

The PRESIDENT. No, sir; the Chair has made no decision about it. The resolution will be read for information.

The CLERK read the resolution submitted by Mr. Buckalew, on the seventeenth of September, as follows:

"Resolved, That the forty-third rule of the Convention be rescinded."

Mr. MANN. I raise the point of order, that that resolution can only be considered at this time by a suspension of the orders, which requires a two-thirds vote.

Mr. BUCKALEW. Why, so?

Mr. MANN. "Reports and resolutions may, on motion, be considered" is the fifth order of business in our rules. That is the motion which the gentleman makes. The other orders of business come first—"reports of committees" and "articles on third reading." The first order of business now is the schedule according to our own rules.

Mr. BUCKALEW. Our practice has been to consider resolutions before reports. I don't care about pressing it at all, but the forty-third rule directly relates to the subject of the ordinance which we have up, and I want the Convention to decide it.

Mr. JOSEPH BAILY. What is the forty-third rule?

Mr. BUCKALEW. In regard to the submission of amendments. I want the Convention to decide it, and it is necessary to decide it now.

Mr. HARRY WHITE. I rise to a parliamentary inquiry: What was the point

of order raised by my friend from Potter?

Mr. KAINE. Why, that we are on third reading, in which he is entirely mistaken.

Mr. MANN. No, I did not say so.

Mr. KAINE. Then your point of order is of no account.

Mr. HARRY WHITE. I rise to a point of order.

Mr. MANN. My point of order is that by the rule reports of committees and articles on third reading take precedence.

Mr. HARRY WHITE. That is the point: I wanted to raise.

The PRESIDENT. Certainly, the Chair understands that.

Mr. BUCKALEW. There is nothing on third reading.

The PRESIDENT. There is an article on second reading. The Chair does not sustain the point of order. The resolution may be taken up if the Convention see proper to take it up. The question is on proceeding to the consideration of the resolution.

Mr. MANN. I call for the yeas and nays.

Mr. BUCKALEW. I second the call.

Mr. TEMPLE. I desire to have the forty-third rule read for information.

Mr. LAWRENCE. What is the object in taking up the resolution?

Mr. BUCKALEW. To consider it. It must be taken up now if it is to be passed upon at all.

Mr. D. W. PATTERSON. I hope the gentleman will let it be on the table.

The PRESIDENT. It is on the table now.

Mr. BUCKALEW. It has been on the table for a month.

Mr. D. W. PATTERSON. Let it be postponed then for the present.

The PRESIDENT. The rule proposed to be rescinded will be read.

The CLERK read as follows:

"That when any article or articles of amendment proposed to the Constitution shall have received three several readings and been finally passed by the Convention, one-third of all the members of the Convention shall have the right, by motion or resolution in the usual manner, to require the separate and distinct submission to a popular vote of any such article, or amendment, or separable section proposed and finally passed, as above stated, by the Convention."

Mr. BUCKALEW. Now, Mr. President, Metzger, Mitchell, Palmer, G. W., Patton, Pughe, Purviance, Samuel A., Stewart and Wetherill, John Price—24.

I desire simply to say that when that resolution is taken up, I shall propose to substitute for it a provision that this subject be considered upon the readings of the ordinance of submission.

The resolution was read the second time and considered.

Mr. HARRY WHITE. I move to amend the resolution by adding the following :

“And that questions of separate submission of parts of the Constitution, be considered upon the readings of the Ordinance of Legislation of the Constitution.”

I desire to save the time of the Convention. I think, by making a single remark, I shall avoid debate on this subject. The rule provides that a motion or resolution may be offered by anybody for the separate submission of any article of the Constitution. Now, I simply ask gentlemen to repeal that rule, and to say, as my amendment says, that the subject of separate submission shall be considered in considering the Ordinance of Submission, so that as far as this subject is concerned, we defer it to the consideration of the Ordinance. By this rule we exclude all motions of individual members. My resolution includes nothing further than that, it defers all questions of separate submission to the consideration of the Ordinance, and we shall have the whole subject up then.

Mr. HARRY WHITE. I am opposed to the passage of this resolution, because, it interferes with what I regard as an organic right of one third of the members of the Convention. Besides that, it requires a two-thirds vote in order to suspend this rule. For one, I shall vote against this resolution.

Mr. BUCKALEW. I did not wish to waive my right to speak on this subject.

The PRESIDENT. The delegate will proceed.

Mr. BUCKALEW. I do not care about it now, but I wish to make a suggestion. Therefore I waive my right for the present.

Mr. D. W. PATTERSON. I should like to hear some reason for the resolution.

Mr. LITTLETON. As it certainly will require a two-thirds vote to pass this resolution, and as the last vote shows that it cannot receive two-thirds, I move to indefinitely postpone the further consideration of the resolution and amendment.

Mr. HARRY WHITE. I second that motion.

The PRESIDENT. It is moved to postpone indefinitely the consideration of the

Y E A S .

Messrs. Achenbach, Armstrong, Bally, (Perry,) Bailey, (Huntingdon,) Baker, Barr, Biddle, Black, Boyd, Brodhead, Brown, Buckalew, Calvin, Campbell, Carey, Carter, Church, Cochran, Corbett, Curry, Curtin, Cuyler, Dallas, Davis, De France, Dunning, Ellis, Gibson, Gilpin, Guthrie, Hall, Hay, Hazzard, Hunsicker, Kaine, Lawrence, Lear, Lilly, Long, M'Clean, M'Murray, Mott, Newlin, Palmer, H. W., Parsons, Patterson, T. H. B., Purman, Purviance, John N., Read, John R., Reed, Andrew, Rooke, Ross, Runk, Russell, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Temple, Van Reed, Wetherill, J. M., Wherry, White, David N., Woodward, Worrell and Wright—67.

N A Y S .

Messrs. Addicks, Ainey, Alricks, Andrews, Bannan, Barclay, Beebe, Bowman, Cassidy, Clark, Collins, Cronmiller, Darlington, Dodd, Edwards, Elliott, Ewing, Fulton, Hanna, Harvey, Hemphill, Horton, Howard, Knight, Lamberton, Littleton, MacConnell, M'Camant, M'Michael, Mann, Mantor, Minor, Niles, Patterson, D. W., Porter, Reynolds, Stanton, Struthers, Turrell, White, Harry, White, J. W. F., and Walker, *President*—42.

So the motion was agreed to.

ABSENT.—Messrs. Baer, Bardsley, Bartholomew, Bigler, Broomall, Bullitt, Corson, Craig, Fell, Finney, Funck, Green, Heverin, Landis, MacVeagh, M'Culloch,

resolution. The question is on the motion to postpone indefinitely.

The motion was not agreed to, the ayes being twenty-five, less than a majority of a quorum.

Mr. DARLINGTON. I now want to hear rule forty-three read, for it is not in our books.

The PRESIDENT. The rule referred to will be read.

The CLERK read as follows:

Resolved, That the following be adopted as an additional rule of the Convention, to be numbered forty-three.

"That when any article or articles of amendment proposed to the Constitution shall have received three several readings and been finally passed by the Convention, one-third of all the members of the Convention shall have the right, by motion or resolution in the usual manner, to require the separate and distinct submission to a popular vote of any such article, or amendment, or separable section, proposed and finally passed, as above stated, by the Convention."

Mr. DARLINGTON. Now what is the proposed amendment?

The PRESIDENT. It is proposed to rescind the rule, with this addition:

"And that questions of separate submission of parts of the Constitution be considered upon the readings of the Ordinance of Submission of the Constitution."

Mr. DARLINGTON. Mr. President: The purpose, if I understand the suggestion of the gentleman from Columbia, is to require a majority of the Convention to entitle them to a separate submission of any article. Is that it?

Mr. BUCKALEW. No, sir; it is that motions and resolutions shall not be offered under the rule, and that the whole subject, without any division of the question the gentleman alludes to, be considered only in considering the Ordinance of Submission.

Mr. DARLINGTON. It is not proposed to rescind the one-third rule then?

Mr. BUCKALEW. The whole rule is rescinded, but the question after is not determined.

Mr. DARLINGTON. The right of one-third is not preserved by the rescinding of the rule. It is reserved in the act of Assembly, but the act of Assembly does not control us. Now this is a rule of the Convention, passed in view of the votes which have been taken again and again, negating the idea of the power of the

Legislature to control us. Then it depends upon us, and I agree that it is within the power of the Convention to say that this Constitution shall not be submitted at all, or that it shall be submitted as a whole, or shall be submitted in separate articles. Now, I put it to members of the Convention, whether, after having agreed to a rule of this kind, saying that one-third of the members should have a right to the separate submission of an article, it is fair now to repeal it and throw the matter into the House, subject to the will of the majority. I put it to them as a question of fairness. I admit the power, but I doubt the fairness of it.

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

Mr. MINOR. I am not sure that I understand this motion, but if I do, then if it prevails, we have no rule whatever on the subject. That is the effect of the amendment; but we simply consider the subject when we consider the ordinance, but the vote is just to be like a vote on any other proposition, to be carried by a majority. That is what I suppose is the question before us, so that it is substantially the question: Shall we have this rule repealed? That is just the point.

Now, sir, as to the question of power, I will not argue it at all, but place the matter simply on the ground of policy. The Legislature did see fit to put this in the statute, as their opinion, as to what would be a proper mode of securing the rights of the people. We, ourselves, have acceded to that voice, by adopting the same rule ourselves as being fair and right; and now, it seems to me, that when we have heard as much as we have in this Convention about the duty and the necessity of protecting minorities, this is the time to make use of it, if ever. We are very anxious to protect minorities as to county commissioners and as to county auditors, and as to Supreme Judges, and as to other things; but as to this Convention, a minority seems to be of no sort of account. Now I say if ever we are to apply the principle of protecting minorities, let us apply it in the Constitution of the State, and have a right to have a thing separately submitted.

Further, it is not giving the right to a minority to control, but it is simply giving the right to a minority to cause a separate submission; not to say what shall or

shall not be the Constitution, for the people decide that; but to say that there shall be a chance for the people to express their opinions upon these different matters separately. Now, I say if there ever was a case where a minority proposition was fair, that is the case.

Mr. CARTER. Mr. President: If we should rescind the rule and after that decide that a majority should determine, this practical difficulty, which has doubtless occurred to many delegates, would certainly arise; that if this Convention should only contain a bare majority of a quorum, as it frequently has done, thirty-four votes, which is a majority of a quorum, might be sufficient to submit amendments separately. So to provide against that contingency, I desire at the proper time to offer an amendment to this effect: "Provided, That the said majority be not less in number than one-third of the whole number of delegates to this Convention," which would entirely prevent the difficulty anticipated by some gentlemen, so that the number can never be less than forty-five.

SEVERAL DELEGATES. That is the rule now.

Mr. D. W. PATTERSON. I ask my friend from Columbia to give some reasons why he would at this late hour of the Convention, propose to rescind this rule, particularly as he voted for it at a former stage of the session. I should like to hear some reason; if not, I want to say something against it.

Mr. BUCKALEW. I am anxious to save time. Of course I can make a speech about this, but I want to save time. We shall have full opportunity of considering the question when the ordinance comes up. Let us pass this resolution and be done with it.

Mr. D. W. PATTERSON. I want to save time, but I want to say something against this proceeding. I will say, in the first place, that this is a very beautiful exhibition of the consistency of the advocates of minority representation. The author of this resolution to repeal the forty-third rule has been a strong advocate of that doctrine, but he undertakes by this motion to repudiate all his sentiments upon that subject in this Convention.

Sir, the rule in question was passed in this body for the reason that although the act of Assembly creating this Convention expressly said in these words: "*Provided*, That one-third of all the members of

the Convention shall have the right to require the separate and distinct submission to a popular vote of any change or amendment proposed by the Convention," yet notwithstanding that act of Assembly, some gentlemen on this floor, repudiated all the provisions and conditions of that act of Assembly and maintained that this Convention possessed powers above and independent of the Legislature, expressing the popular will of the people of Pennsylvania, and above and beyond everything existing in the shape of law, fundamental or otherwise, in this Commonwealth. Well, sir, for myself I have some regard, a deep regard for the people and their wishes as expressed through the Legislature, as expressed by their Representatives in that body; and hence to defeat such aristocratic notions I proposed this rule, so that if we disregarded the act of Assembly we could not trample on our own rules, and it was passed by a large and overwhelming vote of this Convention.

What reasons are given for repealing it and thus going directly opposite to that declaration of the people as expressed through their representatives? The mover of this motion advocated the passage of that rule forty-three. He has suddenly changed for some reasons, and on my request refuses to make known the reasons for such a remarkable change. I have heard that he has presented the view that this act of Assembly only applies in case of amendments, and not in case of a new Constitution. That argument will not sustain the gentleman who made this motion, because I hold in my hand an ordinance drawn up by the gentleman and headed in a way intimating that when he put his pen upon paper and reported in the capacity of chairman of a standing committee of this House he could not say that this was a new Constitution altogether. That ordinance is headed in this wise: "An ordinance for submitting the amended Constitution of Pennsylvania to a vote of the electors thereof," showing that even in the conviction of that gentleman this Constitution is not a new Constitution, but an amended Constitution, and every gentleman on this floor must, if he is honest, maintain that the Constitution now proposed to be submitted contains much of the old Constitution, many of the sections and some of the provisions almost entire. Hence it is not a new Constitution entirely, but an

amended Constitution. That argument will not prevail then against regarding this act of Assembly passed by the Representatives of the people.

If one-third want to submit any article distinctly and separately for a vote, why should not they be permitted to do so; and particularly why not and for what reason should they not in the opinion of gentlemen who have voted and maintained that minorities should have a voice in the subject matter upon which bodies were legislating or acting?

Now, Mr. President, I have answered all the supposed reasons for this motion. The author of it did not, at my request, present any reasons why the rule should be repealed, and hence I can only presume, in my argument, the reasons which he maintains in favor of its repeal. It will require a two-thirds vote to repeal it, and I apprehend that the gentlemen of this Convention will not stultify themselves by going back on their vote on that subject, after a free and full discussion. I am utterly opposed to the repeal.

The PRESIDENT. The gentleman's time is up. The question is on the amendment of the delegate from Columbia.

Mr. HANNA. I call for the yeas and nays.

Mr. HARRY WHITE. I second the call. The question being taken by yeas and nays resulted as follows:

Y E A S .

Messrs. Achenbach, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Barr, Biddle, Black, Boyd, Brodhead, Brown, Buckalew, Bullitt, Calvin, Campbell, Carter, Church, Collins, Corbett, Curtin, Cuyler, Dallas, De France, Elliott, Finney, Gibson, Gilpin, Guthrie, Hall, Hay, Hazzard, Heverin, Hunsicker, Kaine, Lamberton, Lawrence, Lilly, M'Murray, Mott, Palmer, G. W., Parsons, Patterson, T. H. B., Reed, Andrew, Rooke, Ross, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Temple, Wetherill, J. M., Wherry, White, David N., Woodward, Worrell and Wright—55.

N A Y S .

Messrs. Addicks, Ainey, Alricks, Andrews, Baker, Bannan, Boebe, Bowman, Clark, Cronmiller, Curry, Darlington, Davis, Dodd, Edwards, Ewing, Funck, Hanna, Harvey, Hemphill, Horton, Howard, Knight, Littleton, MacConnell, M'Clean, M'Michael, Mann, Mantor,

Minor, Newlin, Niles, Palmer, H. W., Patterson, D. W., Porter, Pughe, Purviance, Jno. N., Reynolds, Runk, Russell, Simpson, Stanton, Stewart, Struthers, Turrell, Van Reed, White, Harry, White, J. W. F. and Walker, *President*—49.

So the amendment was agreed to.

ABSENT—Messrs. Baer, Barclay, Bardsley, Bartholomew, Bigler, Broomall, Carey, Cassidy, Cochran, Corson, Craig, Dunning, Ellis, Fell, Fulton, Green, Landis, Lear, Long, MacVeagh, M'Camant, M'Culloch, Metzger, Mitchell, Patton, Purman, Purviance, Samuel A., Read, John R., and Wetherill, John Price—29.

The PRESIDENT. The question recurs on the resolution as amended.

Mr. MANN. On that question I call for the yeas and nays.

Mr. BUCKALEW. I second the call.

Mr. CARTER. I offer the following amendment:

"*Provided*, That no amendment be submitted by a vote of less than forty-five members."

The amendment was agreed to.

The PRESIDENT. The question recurs on the resolution as amended.

Mr. LAWRENCE. Let it be read as it now stands.

The CLERK read as follows:

"*Resolved*, That the forty-third rule of the Convention be rescinded, and that questions of separate submission of parts of the Constitution be considered upon the readings of the ordinance of submission of the Constitution: *Provided*, That no amendment be submitted by a vote of less than forty-five members."

The question being taken by yeas and nays, resulted as follows:

Y E A S .

Messrs. Achenbach, Alricks, Armstrong, Baily, (Perry,) Barclay, Barr, Biddle, Black, Boyd, Brodhead, Brown, Buckalew, Bullitt, Calvin, Campbell, Carey, Carter, Church, Cochran, Corbett, Curtin, Dallas, De France, Elliott, Fulton, Gibson, Guthrie, Hall, Hay, Hazzard, Heverin, Hunsicker, Kaine, Lamberton, Lawrence, Lear, Lilly, Long, M'Camant, M'Murray, Mott, Palmer, G. W., Parsons, Patterson, T. H. B., Read, John R., Ross, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Wetherill, J. M., Wherry, White, David N., Woodward, Worrell and Wright—56.

N A Y S.

Messrs. Addicks, Ainey, Andrews, Bailey, (Huntingdon,) Baker, Bannan, Bowman, Clark, Collins, Cronmiller, Curry, Darlington, Davis, Dodd, Edwards, Ewing, Funck, Gilpin, Hanna, Harvey, Hemphill, Horton, Howard, Knight, Littleton, MacConnell, M'Clean, M'Michael, Mann, Mantor, Minor, Niles, Palmer, H. W., Patterson, D. W., Porter, Pughe, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Runk, Russell, Simpson, Stanton, Stewart, Struthers, Turrell, Van Reed, White, Harry, White, J. W. F. and Walker, *President*—52.

ABSENT.—Messrs. Baer, Bardsley, Bartholomew, Beebe, Bigler, Broomall, Cassidy, Corson, Craig, Cuyler, Dunning, Ellis, Fell, Finney, Green, Landis, MacVeagh, M'Culloch, Metzger, Mitchell, Newlin, Putton, Purman, Temple, and Wetherill, Jno. Price—25.

Mr. MANN. I raise the point of order that it requires two-thirds to carry the resolution.

The PRESIDENT. The Chair has no doubt in his own mind that it requires a two-thirds vote.

Mr. LITTLETON. Is it agreed to or not agreed to?

The PRESIDENT. The resolution is not agreed to, not having received a two-thirds vote.

SESSIONS FOR TO-DAY.

Mr. D. W. PATTERSON. I now move to proceed to the consideration of the schedule.

Mr. ARMSTRONG. Before that motion is put I desire to submit to the Convention the propriety of taking a recess to-day from one to two o'clock and from five to seven o'clock, and sitting to-night without limitation. ["Aye." "Aye."] I will make that motion.

The PRESIDENT. Shall the gentleman have leave to make the motion at this time?

Leave was granted.

Mr. ARMSTRONG. Now my motion is that the Convention take a recess to-day from one to two o'clock and from five to seven o'clock, and that the session to-night shall be without limitation, except by a motion to adjourn.

Mr. HARRY WHITE. I am in favor of the motion, but I suggest that the first recess be extended to half-past two o'clock. ["No." "No."]

Mr. ARMSTRONG. I think we can get along for one day with a recess of an hour.

The PRESIDENT. Let us understand the motion. Is it that we adjourn to-day at one o'clock?

Mr. ARMSTRONG. No, sir, it is not to adjourn at all, but to take a recess from one to two o'clock for the purpose of getting some refreshment; then to sit from two till five; then to take a recess from five till seven, and re-convene at seven and sit from then until we choose to adjourn.

Mr. HARRY WHITE. I move to amend by making the first recess extend to half-past two o'clock. ["No." "No."] I do this because some of us board at quite a distance from the Hall, and it is impossible for us to go and get our dinners and return within an hour.

SEVERAL DELEGATES. Do without your dinner.

Mr. ARMSTRONG. The gentleman can get along with a dish of oysters for to-day.

The PRESIDENT. The question is on the amendment offered by the delegate from Indiana (Mr. Harry White.)

The amendment was rejected.

The PRESIDENT. The question now recurs on the motion of the delegate from Lycoming (Mr. Armstrong.)

The motion was agreed to.

THE SCHEDULE.

Mr. D. W. PATTERSON. I now renew my motion to proceed to the consideration of the schedule.

The motion was agreed to, and the Convention resumed the consideration of the article on the schedule on second reading, the pending question being on the amendment of Mr. Buckalew to the twenty-eighth section, which was now modified so as to move to strike out the section, and insert in lieu thereof the following:

"The terms of office of county commissioners and county auditors chosen prior to 1877, which shall not have expired before the first Monday of January, 1878, shall expire on that day, and on and after the said first Monday of January, 1876, the office of jury commissioners shall be abolished, and all the duties and powers of jury commissioners shall devolve upon the boards of county commissioners, subject to future regulation by law."

Mr. BUCKALEW. I will ask for a separate vote on the two branches of my amendment, which will relieve it perhaps from some debate.

The PRESIDENT. The question then is on the first branch of the amendment ending with the words "shall expire on that day."

Mr. H. W. PALMER. I am in favor of the first branch of this amendment and shall vote for it, but I am not in favor of the second branch.

The first division of the amendment was agreed to.

The PRESIDENT. The question now is on the second division which will be read:

The Clerk read as follows:

"And on and after the first Monday of January, 1876, the office of jury commissioners shall be abolished, and all the duties and powers of jury commissioners shall devolve upon the boards of county commissioners, subject to future regulation by law."

Mr. H. W. PALMER. This, Mr. President, is a motion to abolish the office of jury commissioner. Such action as that would be very unpopular in the section of the State from which I come. I think the office of jury commissioner ought not to be abolished by this Convention, first, because it is not a constitutional office. We have not anything to do with the office of jury commissioner in framing the organic law. It is an office that was created by an act of the Legislature. It can be abolished by an act of the Legislature whenever the people are tired of it. Up to this time, I believe, it has worked satisfactorily in most districts of the State; at least there has been no complaint made; in many districts of the State it has worked most admirably, and to abolish it would be very unpopular.

In the section of the State from which I come, the proper administration of justice requires this system. Owing to the turbulent, restless character of portions of the population there, when the juries are selected by a partisan body, as they would be in case this amendment carries, no correct and fair administration of justice can be had. I am told that this system is not popular in some sections of the State, but I have heard no gentlemen say that they do not have as good juries now as they had before. We have in our section infinitely better jurors; the jury commissioners try to select the best men they can out of their respective parties, and justice is administered to the great satisfaction of the people; but send us back again to a partisan board of commissioners, and I say that justice cannot be

administered, especially in the criminal courts. You know that all the anthracite counties are infested with a secret society, and when juries are chosen by a partisan board, the members of this secret society find their way into the jury box, and the conviction of certain criminals is simply an impossibility. Therefore, I beg of gentlemen from the other sections of the State where the system is of no importance, to leave it to us, because it is of the last importance to every anthracite county in the State.

Mr. DE FRANCE. I hope this amendment of the gentleman from Columbia will not prevail. So far as I know, in the county that I in part represent, the system of jury commissioners is a very popular thing and it has been perfectly fair; I have not heard a gentleman speak against it since the law was passed. But it seems to me that if we adopt this amendment, the Legislature, if we find that we have made a mistake, cannot revive this act again; it will be constitutionally abolished. It does not seem to me that that is the best way. Why not just leave it where it is, to the Legislature? Some gentlemen pretend to say that the present plan is unpopular in their counties. It may be; but it is not so in our county. It is well liked there, and I have the first individual to hear yet to oppose it; no person opposes it in the county.

Why not leave this to the Legislature? The gentleman from Columbia says that abolishing this office was talked of when the question of minority voting was spoken of. I was here at the time and I do not recollect hearing a solitary individual speak about that matter except himself. I do not recollect of one other gentleman arguing anything about it. The gentleman from Potter may have been in favor of it, but he spoke about it a good while after. I am in hopes that the gentlemen of this Convention will not touch this office, which is a mere legislative office.

Mr. MANTON. I hope that this system will be retained. I believe that as far as my own county is concerned, the people are generally well satisfied with it, and I appeal to my colleague, (Mr. Church,) who can bear testimony to the same effect. I trust this office will not be disturbed.

Mr. WRIGHT. I do not rise to argue this matter, but merely to ask of the Convention that this system shall not be a

constitutional provision be broken up in our county. It has been in existence there for several years, and has been perfect in its operation. I have nothing further to say than to ask that this provision shall not be inserted in the Constitution.

Mr. CUYLER. I think it a very dangerous business for this Convention to meddle with the selection of juries in any way. I believe it should be left wholly and entirely to the Legislature, and that any effort on our part to touch it will result only in mischief. We have tried many experiments in the county of Philadelphia and we hit at last upon a system that might seem to ensure a favorable result; that is to say, we committed the selection of the names and their being put into the wheel to the judges of our courts, and we gave them a clerk at a liberal salary to assist them in their duties. I feel bound to say for one, and I believe that my brethren of the bar of Philadelphia here will echo my own personal experience, that while for a little while we had better jurors, it has at last lapsed into that which is quite as bad as, perhaps is worse than we had before. We need a change, and yet every gentleman would say that the system as it exists to-day is faultless. It is so in theory, and yet it does not work out the result in practice.

I would not therefore write upon the organic law of the State a single word upon this subject, but I would leave it where I hold that it properly belongs, with the Legislature of the State, and would permit it to be moulded and changed as changes in the habits and customs of the people of the State may show to be wise and politic.

Mr. PUGH. I have but two or three words to say on this subject. As far as the system of jury commissioners has worked in our county, it has been beneficial and salutary. I think there has been no bill passed by the Legislature for the better conduct of the jury system in our county that has done more good than that providing for the selection of juries by jury commissioners specially chosen. I have it on the authority of the judges of our courts. I have asked them the question, how do the juries compare now with what they were formally, and they tell me that they are infinitely better, that it was the best reform we ever had introduced in the county; and why should it be abolished now? It is a matter regulated by the Legislature, and if

it becomes burdensome to any counties the Legislature can repeal it, but let it not be inserted in the organic law.

Mr. CHURCH. I only wish to say that I concur very fully with what has been said by the two gentlemen from Luzerne as to the beneficial workings of this law. Coming from a county different in its organization, so to speak, from Luzerne, I can say that it has worked admirably. We have a better class of jurors than we had before.

I wish further to say that I do not believe in the propriety of constitutionally repealing any act of the Legislature. That act was called for by a very large class of people all over the Commonwealth. The Legislature in its wisdom and according to its duty as it believed, passed that law, and it has worked beneficially all over the Commonwealth, as I think; and hence in my judgment we have no right or duty, and there is no propriety in our constitutionally repealing an act of the Legislature. We should leave it to the Legislature themselves.

Mr. HOWARD. I am opposed to this second division. In the first place, I believe that a schedule has a particular purpose, and it should relate wholly and entirely to provisions inserted in the text of the Constitution; and I believe that this Convention should watch and be careful that they do not puncture the body of that text by inserting in the schedule principles that ought to have passed through three readings and been inserted in the text of the Constitution. Is this schedule to be adopted by the people by a vote? Then what are we doing? We are repealing an act of Assembly by our own motion without any submission at all.

Mr. President, I should be glad if delegates would stick to the text of the Constitution that we have prepared, and not undertake to insert here in the schedule what ought to have been put, if anywhere, in the text. In the schedule, I say, we have no right to put it. It is not simply a question of propriety; I say we have no right to put it here.

Mr. BUCKALEW. I desire to say that I am personally quite indifferent upon the question of the vote which shall be given upon this proposition, though I must declare here in my place that I think, on principles of fairness, in counties composed largely of one political party, both

should not have an equal number of jurors. It is unreasonable in other respects that I mentioned last evening, and in my judgment injurious to the character of the tribunal which selects them. The fact that in some counties, now, for a few years, it has worked well, does not remove the objections that I have to the system.

Mr. COCHRAN. I wish to bring to the mind of the gentleman from Columbia that it does not operate precisely in the way he states, that the president judge is made a constituent part of the board and that he has as much to do and nominates just as many jurors as either of the jury commissioners.

Mr. BUCKALEW. I am obliged to the gentleman from York for calling to my mind one of the strongest objections that I have to the system of jury commissioners—that the judge of the court is made part of the tribunal for selecting the jurors for his own court. It is against all sound principle and sound policy that the judge, who presides over and controls largely the administration of justice in our several counties, should be concerned in selecting the jurors for his court. It is one of the worst features of the system, and I am obliged to the gentleman for calling my attention to it.

Sir, I heard an old friend of mine, a Republican president judge in this State, describe the performance in a certain county where he was called into the room to assist the jury commissioners. He did not know many of the people in the county, he had not long resided in it, but he was told that he was to go in there and assist his political friends to get their share of jurors. There he and the two commissioners seated themselves by a table, the Democratic commissioner with a hat full of tickets with names and the Republicans the same; and the proceeding was after this fashion: Each of the jury commissioners in turn reached into his own hat took out a name and put it into the wheel, and then the president judge reached his hand into the hat of his political friend took a name and put it into the wheel; and when the performance was over the president judge did not know a single name he had put into the wheel; and yet he was compelled to do that, to go through that farce, under penalty perhaps of being punished at the end of his term by not being re-elected!

Sir, our law judges ought to be severed from this whole business of selecting jurymen. There ought to be an independent body of men who have nothing to do with the courts of justice and who represent both parties fairly, as this new board of county commissioners will, to select them reasonably from both classes of population in a county, or who rather would not select them from political reasons, as is now done by jury commissioners necessarily under the present system.

Mr. LITTLETON. If all that the gentleman from Columbia has said be true, this is not the place for this provision. The same argument applies to this that I made last evening to the proposition of the gentleman from Philadelphia (Mr. Biddle) to regulate the mode of the election of our county judges in Philadelphia. It should have been in the Constitution itself and not placed here where there is no mode of reaching it in case the people object to it. I therefore say, in the first place, it is objectionable as a matter of legislation, and it is still more objectionable because it is placed in the schedule and not in the Constitution itself.

Mr. BEEBE. Mr. President: Whether it be expedient to have a section of this kind incorporated in the schedule, I am not very well prepared to discuss; but I do aver that the principle is a dangerous one, based upon the same idea in relation to other matters that we have discussed here; that is, it is too much of a one-man power, and in the election of our jury commissioners we are very apt to get a standard of men, to say the least, not very elevated.

Now in regard to the selection of a grand jury, we must recollect that by abolishing special legislation we have a large number of matters relating to the organization of boroughs, and in regard to bridges, &c., that will be referred to the grand juries. How easy is it then, in comparison with the other methods, for a person who has a spite, to go to these jury commissioners and induce them to select such a jury as would be consonant with special purposes? Suppose, for instance, there was a borough to be organized from a township. There you will find as we found in regard to the new county question here, that no people wish to lose anything of territory; and how is the case to appear before that grand jury with not one person on it from the section proposed

to be erected into a borough, but six or eight from the township opposed to the new borough? I merely mention that as an illustration, and you may take this principle in the grand juries at least and you will find it can be applied, and very easily applied, by partisans in securing such recommendations from grand juries selected in that manner as will enable them to carry out their ends. It is a dangerous power in the hands of the men who are selected for these positions.

Mr. MANN. For once, Mr. President, we have a question before us, that is not of very great importance. Nevertheless, as this proposition is right, I propose to support it. If it does not commend itself to the majority of the delegates, I am perfectly satisfied; but I wish to present a view that convinced me that it ought to be adopted.

In the first place, I submit that the argument made against it, because this is an improper place to put it, is not very strong, because if put in the Schedule and not in the Constitution, the Legislature may re-enact the law, if they think it a wise law, so that it will do no harm here; but if put into the Constitution it might do harm, because then they could not re-enact it. I think that is a correct position, and for that reason I am more anxious to carry it. It is no part of the Constitution, it is merely temporary, like a law, and I take it, the Legislature may re-enact this former law if they desire to do so.

Now, the reason why I am in favor of repealing it is because this jury commissioners' law was passed for a mere temporary purpose, to meet a temporary evil in the Commonwealth, growing out of the great excitement and turmoil of the war. There was no necessity for it previous to that time; and the only necessity there was for it then was that under the old law the men who drew the juries were all of one political party, in many counties, and it was alleged that there was necessity for some division of power, and hence the jury commissioners' law was passed, which gave the selection of jurors to two men elected by the people, from the different parties, and to the president judge of the district. But, mark you, this was so offensive to the judges that I believe in no case have they performed their part of the duty, except temporarily. It was offensive and they would not discharge the duty. The law is therefore a

failure, it has never answered the purpose that the Legislature intended, and it is doing injustice to the people. The Legislature never contemplated that a minority party should have an equal control of jurymen with the majority; and to keep that law in force is unjust. But that is the practical effect of it. In a county having a thousand voters of one party and three thousand of another, there goes now into the jury box just as many of one party as the other, and it works unjustly, in that respect, in many places.

But, again, there is no use in it, because the county commissioners as provided for in this Constitution will perform the same duty and will work out the same results as were intended to be worked out by the original bill; to wit, there will be two men of the majority party and one of the minority drawing the jury, and that is just what was intended to be done under the jury bill as it is now a law. It was expected that one jury commissioner and the president judge would represent the majority party in each county and one jury commissioner would represent the minority; but the working of it has been that the president judge found it odious and declined to discharge his duty, so that the law is not carried out in its spirit and has not been since the first year of its existence. The organization of the county commissioners as now proposed by our Constitution will carry out the exact original purpose of the jury law.

And I want to say to the gentleman from Philadelphia (Mr. Cuyler) who objects to this that it does not affect them one way or the other. They have in Philadelphia a special law of their own for the selection of jurors, unless I am very much misinformed. At the time of the passage of this jury law it expressly excepted Philadelphia, and I think Pittsburg; certainly it excepted Philadelphia. Now the reason why I suppose it was advisable to put this section here in the schedule was that it would commend itself to the judgment of this Convention and to the people. If it does not, of course it will be voted down.

Mr. HAZZARD. I hope this will not be put in the Constitution for three good reasons, which have been spoken of by members. One is that jury commissioners is not a constitutional office; another is that we are proposing to abolish a law.

of the Legislature by the schedule; another is that while the present system does not work well everywhere, we have no reason to suppose that if it is fixed as now proposed, that will be a perfect system.

In Washington county, I beg to say, that the present mode is quite satisfactory. We take a pride in electing very good men for jury commissioners, and the consequence is that we have had presented on our juries sensible men; they have been improved very much, indeed; and I believe if the voters were careful in the selection of jury commissioners the present system would work well throughout the Commonwealth. But it does not work well everywhere. Is it certain that the old system of selecting jurors by the commissioners will work well? Is it a perfect system? Have we any assurance that it will not work badly, and if we have is it not better to leave to the Legislature to continue in all the long years to come some way that may be more satisfactory and generally useful throughout the Commonwealth? Is it best to put it in the hard lines of the Constitution, where, in case it should prove to be bad to entrust it to commissioners, we cannot alter it? I am sure the wisdom of the ages coming in the Legislature may contrive something that will secure proper juries.

The PRESIDENT. The question is on the second division of the amendment of the gentleman from Columbia.

Mr. BUCKALEW. I ask for the yeas and nays. I want the record made up.

Mr. HARRY WHITE. I second the call for the yeas and nays.

The question being taken by yeas and nays, resulted as follows:

Y E A S.

Messrs. Beebe, Boyd, Brodhead, Buckalew, Corbett, Hay, Kaine, Mann, Smith, Wm. H. and Stewart—10.

N A Y S.

Messrs. Ainey, Alricks, Andrews, Armstrong, Bailey, (Huntingdon,) Baker, Bannan, Biddle, Black, Bowman, Broomall, Brown, Bullitt, Calvin, Carey, Church, Clark, Cochran, Collins, Cronmiller, Curry, Curtin, Darlington, Davis, De France, Dodd, Dunning, Edwards, Elliott, Ewing, Finney, Fulton, Funck, Gibson, Gilpin, Green, Guthrie, Hall, Hazzard, Heverin, Horton, Howard, Hunsicker, Knight, Lamberton, Lawrence, Lear, Lilly, Lit-

tleton, Long, MacConnell, M'Camant, M'Clean, M'Culloch, M'Murray, Mantor, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Porter, Pughe, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Runk, Russell, Sharpe, Simpson, Smith, Henry W., Stanton, Struthers, Turrell Van Reed, Wetherill, J. M., Wherry, White, Harry, White, J. W. F., Woodward, Worrell, Wright and Walker, *President*—86.

So the division was rejected.

ABSENT.—Messrs. Achenbach, Addicks, Baer, Baily, (Perry,) Barclay, Bardaley, Barr, Bartholomew, Bigler, Campbell, Carter, Cassidy, Corson, Craig, Cuyler, Dallas, Ellis, Fell, Hanna, Harvey, Hempbill, Landis, MacVeagh, M'Michael, Metzger, Minor, Mitchell, Mott, Newlin, Niles, Patton, Read, John R., Ross, Smith, H. G., Temple, Wetherill, John Price and White, David N.—87.

The PRESIDING OFFICER. (Mr. Stanton in the chair.) The question recurs on the section as amended.

The section was agreed to.

The PRESIDING OFFICER. The twenty-ninth section will be read.

The CLERK read as follows:

"SECTION 29. All judicial, State, county, city, ward, borough and township officers, at the time of the adoption of this Constitution, and at the first election under it, shall continue in office until their successors shall be duly elected and qualified, unless inconsistent with this Constitution."

Mr. CORBETT. I hope this section will not pass. The subject is fully covered by section twenty-six, which is comprehensive and broad, and I do not see any use in a repetition on the same subject. Clearly, every officer embraced in this section is embraced in section twenty-six.

Mr. D. W. PATTERSON. I will merely mention to the gentleman who objects, that while the twenty-sixth section continues the terms of officers in office at the adoption of this Constitution, it does not extend their term from the first Monday of December to the first Monday of January, when the terms of new officers, under this Constitution will commence. To cover that is the object of this twenty-ninth section. It puts them over that month, which is absolutely necessary in order to enable the offices to be run by the proper officials.

Mr. HAY. Would it not be a great deal better then to add a brief amendment to section twenty-six, making it cover the whole object?

Mr. D. W. PATTERSON. I have no objection to that.

Mr. HAY. For instance, I will suggest to the Chairman of the Committee on Schedule, to add after the word "expire" in the third line of the twenty-sixth section, these words: "And until their successors shall be duly qualified." That covers the whole case.

Mr. D. W. PATTERSON. That will remedy it.

Mr. BIDDLE. The difficulty is that unless we reconsider section twenty-six we cannot do that.

Mr. HAY. It can be done by unanimous consent.

Mr. BIDDLE. The gentleman from Lancaster is undoubtedly right as to the object of this section.

Mr. HAY. I suggest that unanimous consent be given to make that change in section twenty-six and then this section can be voted down.

The PRESIDING OFFICER. (Mr. Stanton.) The gentleman from Allegheny asks unanimous consent to insert after the word "expire" in the third section of the twenty-sixth section these words: "and until their successors shall be duly qualified."

Mr. BIDDLE. I wish to ask the Chairman of the Committee on Schedule, whether he is willing that the words in the second line of section twenty-nine, "and at the first election under it" shall go out. There may have been a meaning attached to those words. I desire to call his attention to that point.

The PRESIDING OFFICER. This matter would be more properly in order after section twenty-nine is disposed of. This section can be voted down, and then that amendment can be made in section twenty-six.

Mr. BIDDLE. I wish the House to understand that unless we put both the limitations which are contained in section twenty-nine as an amendment to section twenty-six, there may be a risk. I want to know, therefore, from the Chairman of the committee, the gentleman from Lancaster, whether he is willing that the words "and at the first election under it" shall go out, or whether there was not some meaning in those words?

Mr. D. W. PATTERSON. I did not observe that clause. Those words ought to be retained, it seems to me.

Mr. BIDDLE. Then I suggest to the gentleman from Allegheny to include those words also in his amendment.

Mr. HAY. I should like to inquire what meaning and effect those words have. For my part I do not understand what effect they have.

Mr. D. W. PATTERSON. It is only to extend the terms of officers who are in office at the time of the election under this Constitution one month.

Mr. HAY. The language of section twenty-six is "at the time of the adoption of this Constitution." There is no necessity for saying "and at the first election under it." I do not see what importance those words have at all.

Mr. D. W. PATTERSON. Some parts of it do not go into effect until 1875 and some in 1874. Then the officers in office at those respective times are to hold over one month to meet the first constitutional day.

Mr. HAY. I have no objection at all, on that statement.

Mr. LITTLETON. I desire to ask a question of the chairman of the committee. Is there not a reason for retaining this twenty-ninth section, because it specifically enumerates city, ward, borough and township officers?

Mr. D. W. PATTERSON. The twenty-sixth section says "all persons in office," so that it will apply to them.

The PRESIDING OFFICER. The question is on the twenty-ninth section.

The section was rejected.

Mr. HAY. Now I suggest that the twenty-sixth section be changed by adding after the word "expire," in the third line, the words "and until their successors shall be duly qualified," and also by inserting after the word "Constitution," in the second line, the words "and at the first election under it."

The CLERK. The words "or any part thereof" after the word "Constitution" are not out.

Mr. HAY. I understood they were out. I am sure it was the understanding of the Convention that those words should go out. Then I will move to insert the words "and at the first election under it" before the word "shall." Now I ask the Clerk to read the section as proposed to be amended.

The CLERK read as follows:

"SECTION 28. All persons in office in this Commonwealth at the time of the adoption of this Constitution, or any part thereof, and at the first election under it, shall hold their respective offices until the term for which they have been elected or appointed shall expire, and until their successors shall be duly qualified, unless otherwise provided in this Constitution or necessary to carry into effect its provisions."

The PRESIDING OFFICER. The Chair hears no objection and the section will be so amended.

Mr. HAY. I suggest also that the words "or any part thereof" in the second line of the same twenty-sixth section are entirely unnecessary. Whatever is adopted is the Constitution, and there is no necessity for putting in the words "or any part thereof."

The PRESIDING OFFICER. The gentleman from Allegheny asks unanimous consent to strike out those words. No objection being made they will be stricken out. The thirtieth section will be read.

Mr. ARMSTRONG. I desire to ask unanimous consent to make a verbal correction in the thirteenth section. In the fourth line the clause reads: "The judges then in commission." I propose to strike out the word "then," and after the word "commission," to insert, "when such designation shall be made." It is to avoid any obscurity.

The PRESIDING OFFICER. The clerk suggests that the interpolation of amendments in this manner renders the work of making up the Journal very difficult.

Mr. ARMSTRONG. I will defer it for the present.

The PRESIDING OFFICER. The thirtieth section will be read.

The CLERK read as follows:

SECTION 30. All State, county, city, ward, borough and township officers in office at the time of the adoption of this Constitution, whose compensation is not provided for by salaries alone, shall continue to receive the compensation allowed them by law, until the expiration of their respective terms in office.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 31. All State and judicial officers heretofore sworn or affirmed, and in office when this Constitution shall take effect, shall severally, within one month

after such adoption, take and subscribe an oath (or affirmation) to support this Constitution.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 32. The General Assembly at its first session, or as soon as may be after the adoption of this Constitution, or any part thereof, shall pass such laws as may be necessary to carry the same into full force and effect.

Mr. BROOMALL. I move to strike out the words "or any part thereof."

Mr. DARLINGTON. Let that be done by unanimous consent.

Mr. D. W. PATTERSON. No, not by unanimous consent. I object.

The PRESIDING OFFICER. The question is on the amendment offered by the delegate from Delaware.

Mr. D. W. PATTERSON. I merely want to call the attention of delegates to the fact that there might be an article or two or three adopted, or all but two or three might be adopted, and then this clause would apply to the part adopted.

Mr. BROOMALL. Whatever is adopted will be the Constitution.

Mr. D. W. PATTERSON. Oh, no; it will not.

Mr. BROOMALL. We cannot have a part of a Constitution for the State.

Mr. D. W. PATTERSON. The old Constitution will be in force.

Mr. BROOMALL. Such parts as we may determine upon will make the new Constitution, if adopted.

The amendment was agreed to.

The section as amended was adopted.

Mr. H. W. PALMER. The words "or necessary to carry into effect its provisions," at the end of the twenty-sixth section are entirely insensible. They do not relate to anything in the section or anything on the earth beneath or in the heavens above. I ask unanimous consent to strike them out.

Mr. D. W. PATTERSON. I object.

Mr. BIDDLE. I cannot give my assent to these changes until I read them carefully. I wish to have a little time to examine them.

Mr. ARMSTRONG. If gentlemen will turn to the thirteenth section they will observe that it reads: "The judges then in commission." A doubt has been expressed whether the word "then" applies to the time of the adoption of the Constitution or the time of the designa-

tion. I think myself it is clear that it applies to the latter; but some doubt has been expressed, and in order to render it unequivocal I propose to strike out the word "then" and insert "when such designation shall be made."

The PRESIDING OFFICER. The Chair hears no objection and that correction will be made.

Mr. ANDREW REED. I ask unanimous consent to insert the word "elected" in the first line of the thirty-first section before the word "sworn" and also to strike out the word "and" and insert "or," so that it will read: "All State and judicial officers heretofore elected, sworn, affirmed, or in office," &c.

Mr. D. W. PATTERSON. I have no objection to that.

The PRESIDING OFFICER. The Chair hears no objection and that amendment will be made.

Mr. H. W. PALMER. The objection is withdrawn to striking out the last eight words in the twenty-sixth section as simply insensible, and I ask unanimous consent that those words be stricken out.

The PRESIDING OFFICER. No objection being made, the words "or necessary to carry into effect its provisions," at the end of the twenty-sixth section, will be stricken out.

Mr. LILLY. I move that we now take a recess until two o'clock. ["No." "No."]

The motion was not agreed to.

Mr. HALL. I move that the article on schedule be now transcribed for a third reading.

Mr. HUNSICKER. I second that motion.

The section was agreed to.

Mr. HUNSICKER. Now, I move to proceed to the third reading of the article.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the final passage of the article.

ORDER OF BUSINESS.

Mr. BOYD. I move that we take a recess.

The PRESIDING OFFICER. It is moved that the Convention take a recess until two o'clock.

Mr. LILLY. I call for the yeas and nays.

Mr. WORRELL. I second the call.

Mr. ARMSTRONG. I desire to inquire whether it would be practicable to have the schedule printed by five o'clock this

afternoon so that we may then have it before us in print.

The PRESIDING OFFICER. No, sir; it would not.

Mr. DALLAS. While the Clerk is preparing that article for third reading I ask leave at this time to present without reading the paper I hold in my hand, a proposed amendment to the ordinance of submission, to be printed for the use of members. I move that the paper, which is a proposed amendment to the ordinance, be printed for the use of members. I do not ask to have it read now.

Mr. TEMPLE. I should like to know whether that paper can be printed by the afternoon session. It will be of no use if it is not.

Mr. HARRY WHITE. The delegate presents something, we do not know what it is, but every paper that is printed ought to be read.

Mr. DALLAS. It is an amendment I propose to offer to the ordinance when it is up. If I wait until then to ask to have it printed it will be too late to have it considered. I ask leave to submit the amendment now and have it printed in advance.

THE SCHEDULE.

Mr. TEMPLE. I move that we proceed to the third reading of the article on schedule.

The PRESIDING OFFICER. That motion has been made and adopted. The Clerk will read the schedule on third reading.

Mr. BUCKALEW. I would inquire, has the article on schedule been ordered to be transcribed for a third reading?

The PRESIDING OFFICER. It has been.

Mr. BUCKALEW. Then I move to postpone it for the present. We must leave the schedule open and keep it within reach till the last moment.

The PRESIDING OFFICER. The gentleman from Columbia moves to postpone the third reading of the schedule for the present.

The motion was agreed to.

Mr. ARMSTRONG. Then I suggest that it be printed as amended. I think we can get it here by seven o'clock.

SEVERAL DELEGATES. It ought to be printed.

ORDER OF BUSINESS.

Mr. DALLAS. I rise to a point of order. I asked leave to make a motion a moment ago. I ask whether that leave was granted or not?

The PRESIDING OFFICER. It was not granted because this article was pending on third reading.

Mr. DALLAS. Now it is not, and I ask leave to move that a proposed amendment to the ordinance which I have sent to the clerk's desk to be printed for the use of members.

Mr. HARRY WHITE. Let it be read first.

Mr. DALLAS. I do not ask for its consideration now.

Mr. HARRY WHITE. I want to hear it.

Mr. LITTLETON. I rise to a question of order. The ordinance is not before us at the present time.

The PRESIDING OFFICER. No, it has been disposed of for the present. The gentleman from Philadelphia has a proposed amendment which he wants printed. The Clerk will read the proposed amendment.

Mr. MANN. Is there any regular business before us?

The PRESIDING OFFICER. This is regular business.

Mr. MANN. I do not know how that becomes the regular order. Our rules lay down how we shall proceed. Is that ordinary business?

The PRESIDING OFFICER. The gentleman from Philadelphia has presented an amendment to be printed and laid on the table. The Chair decides it to be in order, because a majority of members voted for it.

Mr. MANN. For what?

The PRESIDING OFFICER. For the reception of the proposed amendment of the gentleman from Philadelphia.

Mr. MANN. I did not hear any such motion put.

The PRESIDING OFFICER. The gentleman from Indiana (Mr. Harry White) calls for the reading of the proposed amendment.

Mr. BUCKALEW. I suggest that the best plan would be for the gentleman to withdraw his motion. Either he or any one else can offer an amendment to the ordinance, and he can have it printed.

Mr. DALLAS. My difficulty is, that by the time it can be printed the point where I desire it inserted will be passed. I ask simply, as a matter of fairness, in order that the amendment, which I have prepared with some care, may be carefully considered, that it may lie on the table without reading and be printed, so that

at the regular time it will appear on our desks. That has been frequently done heretofore, and I do not see why there should be objection to it now.

The PRESIDING OFFICER. The reading is called for.

Mr. MANN. I object, because it is not regular business of the Convention.

Mr. CURRY. I move that we take a recess until two o'clock.

The motion was agreed to, and at twelve o'clock and fifty minutes, P. M., the Convention took a recess until two o'clock, P. M.

AFTERNOON SESSION.

The Convention re-assembled at two o'clock, P. M.

FORM OF BALLOTS.

Mr. D. W. PATTERSON. I ask leave at this time to make a report from the Committee on Schedule.

Leave was granted by unanimous consent.

Mr. D. W. PATTERSON. I am instructed by the Committee on Schedule to report a form of ballot to be considered in connection with the ordinance reported by the Committee on Schedule, as sections eleven and twelve.

The PRESIDENT. The sections will be read.

The CLERK read as follows:

SECTION 11. At the said election the ballots shall be in the following form:

NEW CONSTITUTION.

1. For New Constitution.
1. Against New Constitution.
2. For Article No. 1.—Declaration of Rights.

"	"	2.—Legislation.
"	"	3.—Legislature.
"	"	4.—Executive.
"	"	6.—Impeachment.
"	"	11.—Militia.
"	"	13.—New Counties.
"	"	18.—Future Amendments.
2. Ag't Article No. 1.—Declaration of Rights.

"	"	2.—Legislation.
"	"	3.—Legislature.
"	"	4.—Executive.
"	"	6.—Impeachment.
"	"	11.—Militia.
"	"	13.—New Counties.
"	"	18.—Future Amendments.
3. For Article No. 5.—Judiciary.
3. Ag't Article No. 5.—Judiciary.

4. For Article No. 7.—Oaths of Office.
4. Ag't Article No. 7.—Oaths of Office.
5. For Article No. 8.—Suffrage and Election.
5. Ag't Article No. 8.—Suffrage and Election.
6. For Article No. 9.—Taxation and Finance.
6. Ag't Article No. 9.—Taxation and Finance.
7. For Article No. 10.—Education.
7. Ag't Article No. 10.—Education.
8. For Article No. 12.—Public Officers.
8. Ag't Article No. 12.—Public Officers.
9. For Article No. 14.—County Officers.
9. Ag't Article No. 14.—County Officers.
10. For Article No. 15.—Cities and City Charters.
10. Ag't Article No. 15.—Cities and City Charters.
11. For Article No. 16.—Private Corporations.
11. Ag't Article No. 16.—Private Corporations.
12. For Article No. 17.—Of Railroads and Canals.
12. Ag't Article No. 17.—Of Railroads and Canals.
13. For Section 3d of Article No. 8.—Changing time of township and municipal elections.
13. Against Section 3d of Article No. 8.—Changing time of township and municipal elections.
14. For Section 4th of Article No. 8.—Provides for numbering tickets of voters.
14. Against Section 4th of Article No. 8.—Provides for numbering tickets of voters.
15. For Section 3d of Article No. 10.—Makes women eligible for school directors.
15. Against Section 3d of Article No. 10.—Makes women eligible for school directors.
16. For Section 7th of Article No. 14.—Allows minority voting for county commissioners and auditors.
16. Against Section 7th of Article No. 14.—Allows minority voting for county commissioners and auditors.

SECTION 12. The elector who votes for the "New Constitution" as a whole will cancel, with ink or pencil, the word "against" opposite to the words "New Constitution" on the said ballot, and the elector who votes *against* the "New Constitution" as a whole will cancel in the same way the word "for" opposite to the

words "New Constitution," and in the same manner will the voter cancel the word "against" or "for" opposite the articles to be voted on without separation and the several articles and sections to be voted on separately, as the voter may wish to vote, *for* or *against* the said articles and sections, as contained on said ballot.

The PRESIDENT. The report will be laid on the table.

ORDINANCE OF SUBMISSION.

Mr. BUCKALEW. I move to take up for consideration the "ordinance for submitting the amended Constitution of Pennsylvania to a vote of the electors thereof," reported by the Committee on Suffrage, Election and Representation.

The motion was agreed to.

Mr. BROOMALL. I move that the Convention resolve itself into committee of whole for the purpose of considering the ordinance.

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

The CHAIRMAN. The committee of the whole have had referred to it "an ordinance for submitting the amended Constitution of Pennsylvania to a vote of the electors thereof." The ordinance is before the committee and the first section will be read.

The CLERK read as follows:

"Be it ordained by the Constitutional Convention of the Commonwealth of Pennsylvania as follows:

"1. That the amended Constitution, prepared by this Convention, be submitted to the qualified electors of the Commonwealth for their adoption or rejection, at an election to be held on the second Tuesday of December next; except as hereinafter ordered and directed, the said election shall be held and conducted by the regular election officers in the several election districts throughout the Commonwealth, under all the regulations and provisions of existing laws relating to general elections."

Mr. J. N. PURVIANCE. Whilst I would prefer that the election on the question of submitting the Constitution to the people should be held at the time of the spring election, yet the impression of this body seems so universally against that I do not care to press that view now. The sentiment in favor of the month of December as the time for holding the elec-

tion upon the Constitution seems to be too decided to be changed, and therefore I shall only move to strike out "the second Tuesday of December next" and insert "the Tuesday next after Christmas." I do not know what day that will fall on, but I make this motion for this reason: There is no period of time when the people of the State are generally more at leisure than they are between Christmas and New Years. That is a week not devoted to business; it is a week devoted to leisure and amusements; and if my motion is adopted it will bring out a large number to the polls to vote upon the Constitution.

I am not particularly desirous of that day more than any other, but my purpose is to fix the election at the latest time that we can preceding the meeting of the Legislature. The Legislature meets on the first Tuesday in January, and if the Constitution be submitted to the people at the day I have named, there will be ample time to count the tickets by the first of January. I desire to have the election held between Christmas and New Years, for the reason I have stated. Fixing it in the early part of December does not give sufficient time for publication, and does not afford an opportunity for the people to read and fully understand the provisions of the new Constitution. I fear that inasmuch as the second Tuesday of that month will be a bad time, there will be a failure on the part of the people to turn out at the election. Therefore, if the time I have named is not satisfactory, make it at least a later period than that named in the first section. For the present, however, I make the motion that brings up the question of holding the election on the first Tuesday in December after Christmas; I do not know what day that is.

Mr. BUCKALEW. The 30th.

Mr. J. N. PURVIANCE. It is well known that the Legislature transacts no business for the first month. Committees are appointed, and the members generally scatter to their homes, so that no legislation, as a general rule, occurs until the first of February. Consequently we can declare that the Constitution shall take effect from and after the end of January, or the 15th of January, all of which would extend the time of the electors to consider, read and understand intelligently and have explained to them the provisions of this Constitution.

I do hope that the Convention will make no mistake in too hastily submitting this Constitution to a vote of the people. Let us take all the time we can, and this will I understand from the gentleman from Columbia, extend it to the 30th of the month.

Mr. BUCKALEW. It will be the thirtieth day of the month.

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

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

The CHAIRMAN. The question recurs on the section.

Mr. ANDREW REED. I move to amend by striking out "the second Tuesday" and inserting "the third Tuesday."

Mr. SIMPSON. I hope that amendment will be agreed to. If we complete our work to-morrow, it will allow forty-five days between this and the day of the election, and it will be still three weeks before the Legislature will meet under the present Constitution. This is about a fair division, and makes the election fall on the sixteenth of December, instead of the ninth.

Mr. HAY. I will inquire whether this is not this kind of a compromise, that it prevents all investigation into the results of the election; it throws the election at such a late date that there can be no inquiry into the question of whether the election was fairly conducted or not.

Mr. BUCKALEW. I can answer the gentleman. It does not prevent investigation. The election of men to office is ordinarily investigated after their terms begin, and if it is found that they are not entitled to their seats they lose them, and the decision ordinarily amounts to this, that they are not entitled to their seats. So if an investigation should be held upon the election, upon this Constitution, and it should be found that it had not gone into effect at the regular time by reason of fraud in the returns, it would simply be a decision that it ought to have taken effect on the first of January. There is no difficulty in that. I am inclined to agree to this amendment. It will not disturb the report of the committee very seriously, and it will give a little more time to the Secretary of the Commonwealth to have the Constitution prepared correct-

ly and distributed. I, therefore, if the other members of the committee do not object particularly, feel like agreeing to this amendment.

Mr. HAY. I would inquire what date is then proposed for the re-assembling of the Convention.

Mr. BUCKALEW. That will necessarily bring the Convention together on the twenty-fourth of December.

Mr. HAY. That would call us together on the day before Christmas, which would be a remarkable time. Members would not re-assemble at that time, and it is not worth while to adjourn to such a day. If we adjourn to the day before Christmas, the members would not attend, and we might as well recognize that fact.

Mr. BUCKALEW. They would give us good turkey at Harrisburg. [Laughter.]

The CHAIRMAN. The question is on the amendment of the gentleman from Mifflin (Mr. Andrew Reed.)

On the question of agreeing to the amendment a division was called for, which resulted forty-one in the affirmative and thirty-three in the negative. So the amendment was agreed to.

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

Mr. S. A. PURVIANCE. I move to further amend, by striking out "the third Tuesday of December" and inserting "the third Friday of March, 1874," and by striking out all that follows, so that the section will read:

"Be it ordained by the Constitutional Convention of the Commonwealth of Pennsylvania as follows:

"1. That the amended Constitution, prepared by this Convention, be submitted to the qualified electors of the Commonwealth for their adoption or rejection, at an election to be held on the third Friday of March, 1874."

Mr. AINEY. I hope this amendment will prevail. It will save the State a vast sum of money, and will give the people abundance of time to investigate the work we present. I submit that forty-five days is too short a time to get this Constitution properly before the people, and unless we give a longer time there are portions of this Commonwealth in which the voters will not know what the Constitution is. I hope that the amendment fixing the election on the third Friday of March will prevail.

Mr. S. A. PURVIANCE. I consider this a very important question, and I think

that we too hastily passed over this subject without giving it due consideration. What is meant by this section as it stands? It means that in the short space of time during which we have been sitting here since we last convened, about six weeks, we expect the people to understand all the changes we have made. Six weeks is all the time that we are to give the people of this Commonwealth for the consideration of our work, which has cost us the labor of nearly a year. I am impressed certainly with the idea that if this Constitution be submitted in the middle of December, when the sleet and snow are driving in the face of voters, we cannot expect voters to go four or five miles to the polls for the purpose of voting for that instrument. But if we fix the time in the middle of March, when in most of the counties the people are assembled together for the purpose of electing their justices of the peace, their township officers—upon which they are usually as much excited as upon any general election—you may have an expression of the public voice upon your Constitution which you may fail to do by fixing the time in December.

What is the argument for fixing the time for this election within six weeks of the close of our labor? There is but a single argument, and that argument is that it is for the purpose of shutting down upon the Legislature, to prevent them from passing bad laws. I submit it to the solemn consideration of the Convention, whether it is not better to run the risk of bad laws at one session of the Legislature—to run the risk of not putting a bridle on the Legislature for one session, than to run the risk of having them unbridled for all time to come. That is the question involved in this amendment of mine, and I trust every member will give it due consideration.

Mr. CURTIN. When we submit to the people the amendments of the Constitution proposed by this Convention we rest entirely upon their merits. The merit of these amendments, I have no doubt, will carry them before the people, if they have sufficient time to examine them, or if they can be excited to a proper consideration of their importance. That is all we have to consider on this subject. The amendments we make must be their own vindication. We have no organization of any party; we have no means by which we can reach the distant parts of this Com-

nonwealth to excite the public attention to these amendments. We may expect the active hostility of those who are opposed to our amendments, and unfortunately the opposition to the action of this Convention will be in the hands of men who control thoroughly the political organizations of the State. They can reach every county, township, city, hamlet and house by the machinery of party or political discipline, and we can only offer the amendments on their merits.

Notwithstanding the objection that the Legislature may act improperly and pass laws in anticipation of the acceptance of these amendments, I do think that this Convention should deliberate seriously before they attempt to call the people from their homes at an inclement season of the year for that reason alone. It has been truly and properly said that in the spring elections the people will be out and we have nothing to fear from a full vote. I do most heartily concur in that amendment.

Mr. LEAR. Mr. Chairman: I am glad to agree with the gentleman who has proposed this amendment, and with the gentleman from Centre, who advocates it. Whatever may be the verdict of the people of Pennsylvania upon the work which we have done, I want it to be given after an intelligent and careful consideration of the whole subject. After all, the people of this State, as of every other State, must depend upon the calm consideration and deliberation of the intelligent class of the people, and that intelligent class are the solid and substantial yeomanry. Whatever the politicians of Philadelphia may think; whatever politicians may think in other places where they have a controlling interest, there is a class of people in this State who do the best and most substantial and valuable thinking of any other people in the State, who will be more engaged than at any other season of the year, almost between this and the 16th of December; and that is the agricultural portion of the community. It is not until after the holidays that those people get around their firesides and talk in the family circle, and discuss the merits of State questions and national questions, and they discuss them as intelligently as any member upon this floor can discuss them when they get together; and I want whatever may occur, or whatever the result may be, that these people above all others, among whom the conservatism of the State exists, shall have a

fair and full opportunity to investigate the work which we have done.

Now, in the time between this and the sixteenth of December, when they are garnering their crops, when they are as busy, as I have said, preparing for the winter as they are at any other time of the year, there will be no opportunity for that investigation and examination of this instrument which they will have in the dead of the winter when their work is done and when they, around the domestic hearth, in their lyceums, if you please, in their other institutions which they have for social, literary and philosophical entertainment in the various communities of the State, may discuss and consider this question, and then through the papers of the rural districts, it may be discussed by correspondents and by editors and by others, and the whole subject be fully, thoroughly and fairly examined and intelligently decided upon. Then the result, let it be what it may, will be a verdict based upon consideration, instead of being forced by a hurried march, as we proposed to force it now, looking only, as the principal argument seems to be, to a consideration of how many votes we can muster for it, good or bad, whether it is right or wrong. If it be right, let us have the people properly agree to it and we shall have a Constitution that is the people's Constitution, and they will have nobody to blame; but let us not force action by precipitately calling the people together to vote before they had due and ample time to consider all the questions involved in it and their relations to the affairs of this State.

Mr. CHURCH. Mr. Chairman: This Convention, on the fifteenth of July last, placed itself upon the record in this matter so far as it could do, by adopting the following resolution. The first resolution offered by the gentleman from Columbia, (Mr. Buckalew):

"That the Convention will submit the new or revised Constitution proposed by it, to a popular vote at such convenient time as will secure its taking effect, in case of its adoption by the people, on or before the first day of January next."

Now, sir, if we undertake by the adoption of any amendment now to reverse that resolution, it will be reversing our action of July last, upon the theory of which we adjourned for two months.

Now, in regard to what has been said by the gentleman from Bucks, (Mr. Lear,)

I undertake to say, speaking for my own section of country, that the four or five weeks that will remain after we adjourn, and after the Constitution is presented to the people before the election, will be sufficient to enable them to judge accurately and carefully of its provisions. They are a reading people in my section of country, they are an intelligent people, and it will not take them as long to determine what is in this Constitution, and to determine upon its rightfulness and its propriety or impropriety as it took us to determine the propriety and impropriety of certain sections or articles, because we have spent very little time in voting on these matters, but we have spent the most of our time in debating and discussing things which were, in my judgment, of no importance whatever.

Mr. Boyd. Mr. Chairman: I took occasion a few days ago to suggest the propriety of holding this election in the Spring. The reasons which I intimated then, and which I will now more fully state, were these: This, instead of being an amended Constitution, is substantially a new Constitution. Of course the people of the State, before they adopt a new instrument entirely, will be desirous of having an opportunity and a sufficient time to investigate and examine what they are asked to substitute for the old Constitution. Now, the most effective means of reaching the people upon this subject will be what the newspapers will introduce into their columns, from time to time, in relation to it. It will, in that way, give rise to discussion in the papers, and that discussion will call the attention of the people to it, and by that means they will begin to become acquainted with and familiarize themselves with the entire document, and considering the great length of the Constitution we propose, it will certainly take very considerable time and very considerable space in the papers before it can all be fully set forth before them; and I warn delegates here against the appearance even of forcing upon the people this Constitution. It is far better for those who are favorable to its adoption to give the people ample time to consider it, rather than to force the matter and create the impression that there is an object in rushing it through.

When amendments have been from time to time proposed by the Legislature, they have been in a small compass and easily comprehended by the people, and

they have had no difficulty in passing upon them; but now you present a Constitution to the people that is a small volume within itself, and it will be impossible for the majority of the people to even see it and take it up and read it carefully to fully understand and comprehend it in all its bearings or the subject-matters of which it treats, and the assistance to enable them to do it can only be furnished the people by the discussions that will follow in the newspapers on the different important articles.

I do not regard as of binding force the view submitted to this body by the gentleman from Crawford, (Mr. Church,) which was that in the month of July, when we were in haste to have a recess, when it was uncomfortable here, we passed a resolution to have the new Constitution, in case of its adoption, go into effect on or before the first of January next. At that time we could be induced to agree to almost anything of this nature; but even if it was seriously and deliberately considered at that time, that is no reason why we should not profit by the light of experience and further consideration; and if we conclude that it would be wiser to defer this election beyond the time fixed upon as stated by that resolution, I see no impropriety in such action or even any going back upon anything we have done.

Now, as has been stated by the distinguished gentleman from Allegheny, (Mr. S. A. Purviance,) it is as certain as you are living men, that if you call an election of the people to vote upon this instrument, and with nothing else to call them out, you will have an exceedingly small vote, and if in that month you have an inclement day it is difficult to conjecture how small a vote you may have upon the instrument, and the smaller the vote the weaker the weight and effect upon the people will be, if that vote is either for or against it under such circumstances. But if, as the gentleman from Allegheny truly says, this instrument is submitted at the spring election, when the people are sufficiently interested to come out and vote for the officers to be voted for, and when, at the same time, they are comparatively free from political influences or the drawing of strict party lines, you will have a fair vote out and a fair consideration given to the subject; and I claim and insist that that is the proper time to vote upon it to produce any satis-

factory results. I trust that the proposition moved by the gentleman from Allegheny will be adopted.

Mr. BUCKALEW. I suppose a few words are all that is necessary in reply to this amendment, in stating the views of the members of the committee that reported this ordinance.

In the first place, the act of Assembly, called the Convention act, under which members of this body were chosen, provides that the notice of the election shall be thirty days. We have now forty-seven days between the present time and that fixed by the committee for this election. The time, therefore, will comply with the statute, and I am in favor of following the direction of the Convention act prescribed by the Legislature where it can be conveniently done, without reference to the question of power as between the Legislature and this body.

In the next place, we have the example of Illinois, the only one of the large States which has, in very recent years, held a Constitutional Convention. The Convention of that State adjourned on the thirteenth of May, 1870, and ordered an election on the second day of July upon the new Constitution and several amendments—not much difference in length of time from that which is proposed by this ordinance; and that Constitution triumphed by majorities running from 30,000 up to 125,000, or about that. My idea is, that prompt submission, a moving forward with confidence, an exhibition of belief in the value of our own work and of its approval by the people, will have a salutary effect in inducing the acceptance of that work; and I suspect that any longer delay than a month and a half would only produce lassitude among the people with reference to what we have done. They will look at it, and finding that they are not to act upon it for some time, will dismiss it from their attention. Our work will have just as much attention given to it in this period of a month and a half as if it had lain before the people for six months, and they will be much less likely to be disgusted with the whole subject by hearing of it too often. I consider then that there are advantages in a prompt submission.

Again, sir, as to attendance at the polls, I think that upon the whole that part of our fellow-citizens throughout the State who are in favor of reform and interested in it will attend the election, and that

those who are indifferent or hostile will constitute the larger part of those who do not vote. It is true that vicious elements in this State might be polled against this Constitution; but to poll them against it in this election it will be necessary to expend a large amount of money, and that hostile and vicious vote cannot be moved at such an election as this because the means do not exist. There will not even be political candidates to be used for the purpose of bringing it out. So that upon the whole, I am of the opinion that taking the vote promptly and without the question upon the Constitution being mingled with anything else, will be rather favorable than otherwise to its acceptance by the people.

I desire to answer one argument which was made in favor of an election in the spring, by suggesting a result that members will see is not to be accepted unless it is inevitable. The effect of postponing the vote on the new Constitution until the third Friday in March, will be that the Legislature next winter cannot pass the laws required by this Constitution to be enacted at their first session. We have various provisions, casting upon them the duty of enacting laws at their first session after this Constitution is adopted. If we do not vote on the Constitution before the third Friday of March, the Legislature cannot act until a year from this winter, unless they hold a summer session, which is not to be counted upon, and if it is held, it will be attended with very large expense. There is, therefore, the pressure of necessity upon us to put this Constitution in force by the first of January, or very soon after it, in order that the Legislature at its next session may pass the laws which we require from them looking to the elections of 1874, of the State officers and sundry other officers whose election we have authorized.

Again, it is to be observed, that elections are not held throughout the whole State on the third Friday in March, and we shall have to carefully provide for a special election in certain parts of the State at that time. Philadelphia, the most populous point in the State, does not vote in March. In recent years they have held their municipal election at the general election. A number of counties hold their municipal elections in the month of December. In Pittsburg I am informed the elections are held in January. Lycoming and a number of other

counties hold their elections in the month of February. So that the third Friday of March will not accommodate the people of the whole State, and you will have to incur the expense of a special election in a large part or in various parts of the State. So far as this will affect it, that argument is weak; it has less force than it would otherwise have.

I believe this is all I care to say on this amendment. It seems to me that although there are inconveniences in ordering an election on the third Tuesday of December, although there are inconveniences attendant upon what we propose to do, yet upon the whole it is wise and proper for us to order an election at that time, and, along with it, accept the other provisions which the Committee on Elections have reported.

Mr. BOWMAN. Mr. Chairman: The gentleman from Crawford (Mr. Church) referred to the resolution that was passed by this body on the fifteenth of July last. That resolution has gone broadcast over this Commonwealth. The people have read it. They have understood since the fifteenth of July last that the labors of this Convention were to be submitted to the people for their ratification or rejection, on or before the first of January next. They believed that, and if this amendment prevails here to-day, postponing the time of election until the third Friday in March, the people will be disappointed; we shall not have come up to their expectations. They are desirous to vote upon this question at as early a period as practicable. In my judgment, this question will be discussed through the public press of this Commonwealth during the next four weeks after the adjournment of this Convention more thoroughly than it will be in any given period of time thereafter. It will be more thoroughly discussed, and as I believe, better understood by the people during the next four weeks after the adjournment of this Convention than at any time thereafter.

The gentleman from Columbia (Mr. Buckalew) has well said that all the counties in the State do not hold their township elections upon the third Friday in March. In addition to that, allow me to say that in several counties of the State they do not hold their elections upon the same day, but they have different days in the same county. It is so to some extent in Erie county. We have townships in that county that hold their elections in

February, while the others hold their elections in March. Then it would be doing injustice to the people of the counties where the elections are not held on the third Friday of March, to order this election on that day as is contemplated by this amendment. You would compel the people in all such counties to attend the polls on two different days, on the day fixed for them to vote upon the adoption or rejection of this Constitution, and then on another day to elect their township officers.

It seems to me that the people, when they are called upon to vote on the question about to be submitted to them for their consideration, ought to be free from every political bias and prejudice; they should be free to vote upon that isolated question alone, untrammelled by any other, even the election of township officers. If we order this election upon the third Friday of March, because most of the elections for township officers are held on that day, I believe we shall commit a most egregious error. I believe that the people will understand this question better at the expiration of four weeks, while it is fresh in their minds, while it will create an excitement among them, than at any subsequent time; for every gentleman must know that just as soon as we adjourn, the Constitution we have framed will be taken up by the press throughout this broad Commonwealth, and every proposition will be thoroughly commented upon by the press and discussed by the people; and unless we follow this matter up as rapidly as possible, the people will understand that we have no confidence in our own work. Let this question lie dormant for three or four months and the people will not become so interested in it, to attend the polls and vote, either one way or the other, as they will if you prosecute it with diligence and follow it up as fast as possible. Give four weeks notice through the papers; give every other possible notice that you can. Say to the people, "here is our work; you have been complaining and making charges against the legislative branch of your government; now we place in your hands the power to defend yourselves."

Talk to me about the people not being interested in this question! If the people are not interested they will not attend the polls; if they are interested, they will do so; and it seems to me there is an

abundance of interest to induce the people to attend the polls. I believe you will poll a larger vote in December than you can poll if this amendment should pass and you should hold your election on the third Friday in March.

I hope the amendment will not prevail. I believe it will prove disastrous to our work. We should follow it up as fast and as speedily as possible under the act of Assembly, which requires us to give at least four weeks notice, and we are now giving almost seven weeks notice to the people, nearly three more than the act of Assembly requires.

Mr. COCHRAN. Mr. Chairman: I have hesitated very much on the point that is now under consideration by the committee. I was very anxious, and am very anxious, and that anxiety will probably control the vote I shall give on this question, that the Constitution should be submitted to the people and that we should fulfil our own engagement to have it submitted to them before the first day of January. I differ entirely from the two gentlemen who have last addressed the committee with regard to the inexpediency of connecting with the submission of this Constitution other matters which I believe would have a great tendency to bring out the popular vote and to secure the adoption of this instrument. It has pleased this body, however, to overrule the motion which I made and advocated on that subject, and now I am left to determine between conflicting considerations whether I will agree to vote to submit this Constitution in December or in March. Well, sir, I have been almost persuaded to go for March; but after as full consideration as I could give to it, I have concluded to abide by December and take the chances. I think that we are running chances which it is not wise for us to encounter; but still it is better for us to do it in December and let the people have the opportunity, which many gentlemen say they are willing to improve, of action on this Constitution at that time. If you put them off until March, I am afraid that a great deal of interest connected with this subject will die out in the popular mind, and it will not be possible to ratify it as it would be in December. If we can now keep steadily before the minds of the people until December sixteenth the amendments we have made, we shall get a respectable vote. We shall not get a full one, that is certain; but we

shall get a vote respectable enough to save the Constitution from the antagonistic influences it may have to encounter. I shall therefore vote to submit this Constitution in December. I will trust to the people and to their interest in this subject, and I believe that if they go to the polls, which is the great difficulty, they will decide it right. Therefore I shall abide by the report.

The CHAIRMAN. The question is on the amendment of the delegate from Allegheny (Mr. S. A. Purviance.)

The amendment was rejected.

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

Mr. D. W. PATTERSON. I move to amend the section by striking out all after the word "next" and inserting "to be voted for as a whole, and also in the manner following, to wit: and the following articles shall be submitted at said election, to be voted on together, to wit:

- "Article No. 1.—Declaration of Rights.
- " No. 2.—Legislation.
- " No. 3.—Legislature.
- " No. 4.—Executive.
- " No. 6.—Impeachment.
- " No. 11.—Militia.
- " No. 13.—New Counties.
- " No. 18.—Future Amendments.

"The following articles shall be submitted at said election to be voted on separately, to wit:

- "Article No. 5.—Judiciary.
- " No. 7.—Oaths of Office.
- " No. 8.—Suffrage and Election.
- " No. 9.—Taxation and Finance.
- " No. 10.—Education.
- " No. 12.—Public Officers.
- " No. 14.—County Officers.
- " No. 15.—Cities and City Charters.
- " No. 16.—Private Corporations.
- " No. 17.—Of Railroads and Canals.

"The following sections shall be submitted at said election, to be voted on separately, to wit:

"Section 3d of Article No. 8, of 'Suffrage and Election.'

"Section 4th of Article No. 8, of 'Suffrage and Election.'

"Section 3d of Article No. 10, 'Education.'

"Section 7th of Article No. 14, 'County Officers.'

Mr. WHERRY. I rise to a point of order. I submit that this amendment is

not germane to the section under consideration.

Mr. D. W. PATTERSON. It certainly is. It provides whether we shall vote on the Constitution or not, and is certainly germane.

Mr. BUCKALEW. I would suggest to the gentleman from Lancaster that this subject will be raised by the next section, and it may be better to let the present section pass as amended and offer his amendment to the next.

Mr. D. W. PATTERSON. At the instance of my friend from Columbia, I will withdraw the amendment for the present with the understanding that it is to be renewed when the next section is under consideration.

The CHAIRMAN. The amendment is withdrawn, and the question is upon the section as amended.

The section as amended was agreed to.

The CHAIRMAN. The second section will be read.

The CLERK read as follows:

"II. That at said election, separate votes shall be taken upon the following parts of said amended Constitution, to wit:

"1. Upon the article entitled 'The Judiciary.'

"2. Upon the article entitled 'Railroads and Canals.'"

Mr. WOODWARD. I rise to a question of privilege. I ask leave to offer a resolution that belongs to this very subject, and which needs to be offered now to have any effect.

The CHAIRMAN. Shall the gentleman from Philadelphia have leave to have his resolution read for information? The Chair supposes it would be in order to read it.

Mr. WOODWARD. I ask that it be read for information. It will explain itself.

MANY DELEGATES. Read it.

The CHAIRMAN. It will be read.

The CLERK read as follows:

"Resolved, That it be referred to the delegates who reside in the city of Philadelphia, to nominate five commissioners to execute the ordinance under consideration in the city of Philadelphia, and that the Sergeant-at-Arms be instructed to give said delegates notice to meet this evening at seven o'clock in the President's room, to consider said nominations."

Mr. WOODWARD. In order that the committee of the whole may have a per-

fect section when we come to that subject, I ask that this resolution be considered now, and if adopted, we shall then be able to bring in the nominations this evening.

The CHAIRMAN. The Chair is required to say that the resolution is not at this time in order.

Mr. HANNA. I ask unanimous consent that the resolution be now considered.

The CHAIRMAN. Unanimous consent will not allow a resolution to be considered in committee of the whole.

Mr. DALLAS. For the purpose of allowing the gentleman from Philadelphia to offer his resolution, I move that the committee of the whole rise, report progress and ask leave to sit again.

Mr. WOODWARD. I second the motion. It is important if the resolution be adopted at all, that it be adopted now.

Mr. CAMPBELL. This can be arranged for after a while without interfering with the work of the committee of the whole.

The CHAIRMAN. The question is on the motion that the committee rise.

Mr. HARRY WHITE. May I inquire what is the purpose of rising?

Mr. WOODWARD. The purpose of the motion of the gentleman from Philadelphia (Mr. Dallas) is to bring together the delegation of the city of Philadelphia, who alone are interested in this matter.

Mr. HARRY WHITE. Not at all.

Mr. MANN. I do not see how that comes in.

Mr. WOODWARD. The resolution I desire to offer, if the committee rise for that purpose, is designed to bring together the Philadelphia delegation in order to agree upon the nomination of commissioners of election in this city. It will be a joint meeting of all the delegates from the city of Philadelphia, and no other delegation have the slightest interest in the subject.

Mr. HARRY WHITE. I beg the gentleman's pardon.

The CHAIRMAN. This discussion cannot be indulged in any farther. The question is on the motion that the committee of the whole rise, report progress and ask leave to sit again.

The motion was agreed, to and the committee rose.

The President having resumed the Chair, the chairman (Mr. Purman) reported that the committee of the whole had had under consideration the ordinance for submitting the amended Constitution of Pennsylvania to a vote of the

electors thereof," reported by the Committee on Suffrage, Election and Representation, and had instructed him to report progress and ask leave to sit again.

Leave was granted the committee of the whole to sit again this afternoon.

Mr. WOODWARD. I now move the resolution which I sent to the clerk's desk.

The PRESIDENT. The delegate from Philadelphia asks leave to offer a resolution. Shall he have leave?

Leave was given.

The PRESIDENT. The resolution will be read.

The CLERK read as follows:

"Resolved. That it be referred to the delegates who reside in the city of Philadelphia, to nominate five commissioners to execute the ordinance under consideration in the city of Philadelphia, and that the Sergeant-at-Arms be instructed to give said delegates notice to meet this evening at seven o'clock in the President's room to consider said nominations."

The PRESIDENT. What shall be done with the resolution?

Mr. WOODWARD. I move to proceed to the second reading and consideration of the same.

The motion was agreed to, and the resolution was read the second time and considered.

Mr. LILLY. I would like to know what five commissioners there are. This Convention has ordered no five commissioners.

Mr. NILES. It is going to do so when we reach the proper section.

Mr. LILLY. Suppose we do, it will then be time enough to provide for their appointment. There are doubts about their appointment at all, however, and it will be a peculiar position for us to be placed in if we appoint the commissioners and then decide not to have any. I do not like this way of doing business, and I do not like it said on this floor that only the delegation from this city is interested in this proposition. I am interested in it, and every other delegate on this floor is interested in it, just as much as is the delegate from Philadelphia (Mr. Woodward.) I take it that the gentleman is saying too much when he states that only Philadelphians are interested in this resolution. Everybody in Pennsylvania is interested in it.

I am quite willing to concede this power of appointing the commissioners to the

delegation from Philadelphia, if the Convention determines to have commissioners in this city; but I want the Convention to first say that they will have them. There are delegates here who are opposed to the appointing of such commissioners altogether, and we ought to provide for their appointment before appointing them.

Mr. WOODWARD. The question of nominations, I will state to the gentleman from Carbon, is one in which he has no interest whatever. In the question of election he has a common interest with everybody else on this floor; but the nominees have to be agreed upon somewhere. Now, is it to be done by a squabble on this floor, or by a joint meeting of the delegates of the city of Philadelphia in a private room? That is the whole of it. In that matter the gentleman from Carbon has no interest that I am aware of unless he is interested in confusion, and unless he wants "confusion worse confounded." The delegates, so far as they have conferred together, on both sides, have agreed to this thing. I do not understand that there is any opposition on the part of the Philadelphia delegation to the resolution. It merely gives an opportunity to deliberate for the purpose of agreeing upon nominees to be presented in this Convention, when the gentleman will have the full power and full right to object to everything the delegates from this city may offer. That is the scope of my resolution.

Mr. HARRY WHITE. I utter an amen to what my friend from Carbon has said on this subject. I endorse all that he has said, not only the language but the sentiment also. Without intending any discourtesy to any gentlemen on this floor. I, as a member of this body, claim to be somewhat responsible for its action, certainly for its judgment. This resolution sounds to me very much like the action of the much abused Legislature occasionally in passing special legislation for the benefit of Philadelphia. Time and again gentlemen who have looked as spectators on the proceedings in the Senate and House of Representatives, have seen a member, a representative from Philadelphia or from some other locality, rise in his place and read a bill and move that it be referred to the members from the city of Philadelphia. The result has been that some local bill has been passed or brought up for the next calendar day, and the pa-

pers of Philadelphia have teemed with abuse against the Legislature of Pennsylvania, when the city delegation was entirely responsible for it, and no member outside of the city delegation knew anything about it.

By our article on Legislation, we want to correct just that sort of thing, and as a member of this Convention, I will not lend myself, directly or indirectly, to a proposition of that kind. I have no objection, whatever, to the delegates from Philadelphia selecting their own commissioners, if that section of the ordinance is adopted, which we shall discuss when we reach it, and then let them present their action in open Convention. If they desire to consult together, let them retire to a room when the Convention adjourns, or now, or at any other time; but I will not vote for a resolution going upon the proceedings of this Convention which, as this does, recognize the power of one part of this Convention to do an act which will bind the rest of it.

Mr. TEMPLE. I think the gentleman from Indiana (Mr. Harry White) entirely misconstrues the compass of this resolution. If I understand it properly, it simply permits the delegates from Philadelphia to retire into an adjoining room to see whether they cannot possibly agree upon proper nominees to be submitted to this Convention for its action.

Mr. LILLY. May I ask the delegate a question?

Mr. TEMPLE. Certainly.

Mr. LILLY. How many commissioners are you going to appoint and for what purpose, if the Convention does not decide to have any?

Mr. TEMPLE. I will answer the delegate. If it should turn out that the Convention does not agree to appoint commissioners, of course there will be no report made, but there will be even in that case no harm done.

Mr. LILLY. Will the gentleman permit another question?

Mr. TEMPLE. Yes, sir.

Mr. LILLY. Why not wait until you see whether we do agree to have commissioners?

Mr. TEMPLE. My reason for not waiting until the section involving these appointments is this: It is likely that more than a dozen names will be presented by each party for the position of election commissioners, and if such be the case it

will become a mere scramble for selection, and delegates from the interior will be obliged to listen to the excitement of a contest in which they will have little, if any, interest. It is necessary that these preliminary arrangements should all be settled in committee room, and that the Philadelphia delegation should recommend the names of persons for commissioners of election in this city. It is not intended that the Philadelphia delegates shall elect the commissioners. Nobody claims that as our right; but what can any gentleman upon this floor, other than a resident of this city, know of the competency or the capability of a commissioner to carry on this election? We desire, as Philadelphians, to present names to this Convention which will be acceptable to it and acceptable to the people of Philadelphia. If we do not do that, then it will be the fault of this Convention if it endorses them and ratifies our choice.

The selection of these commissioners of election in the manner proposed is in no way similar to the circumstance mentioned by the gentleman from Indiana. This is no special legislation and no log-rolling, as he would have us believe. The resolution was simply introduced for the purpose of seeing whether the gentlemen on this floor, residing in the city of Philadelphia, can present to the Convention suitable names for its approval, and save the disagreeable spectacle of a grab for position here upon this floor. The post of commissioner of election is one which should not be asked by any gentleman. There is nothing about it which would warrant any delegate in voting for those persons who have been here lobbying in this hall for the position, and I trust no such person will be chosen. We desire to select the most trustworthy and competent gentlemen possible, and, if we are allowed to do it, will so select.

Mr. CUYLER. Mr. President—

Mr. DE FRANCE. Who is hindering the gentlemen from Philadelphia from attending to their own matters?

The PRESIDENT. Nobody but their own talk, [laughter,] and if they will stop talking altogether, we will give them their commissioners to attend to their own matters.

Mr. CUYLER. If the President will adhere to that decision I will not say a word.

The PRESIDENT. The Chair will so adhere. [Laughter.]

Mr. HANNA. I suggest to my colleague that he make the hour half-past six instead of seven o'clock.

Mr. WOODWARD. I will do that.

The PRESIDENT. The question is on the resolution as modified.

Mr. HOWARD. Before that resolution passes I want to hear it read.

Mr. NILES. It does not include Allegheny.

Mr. HOWARD. Allegheny is interested just as much as Philadelphia, and I want to hear the resolution read.

The CLERK read as follows:

"Resolved, That it be referred to the delegates who reside in the city of Philadelphia, to nominate five commissioners to execute the ordinance under consideration in the city of Philadelphia, and that the Sergeant-at-Arms be instructed to give said delegates notice to meet this evening at half-past six o'clock in the President's room, to consider said nominations."

The resolution was agreed to.

Mr. D. W. PATTERSON. I move to go into committee of the whole to consider the ordinance for submitting the amended Constitution of Pennsylvania to a vote of the electors thereof.

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

The CHAIRMAN. The committee of the whole have had again referred to it the ordinance for submitting the amended Constitution of Pennsylvania to a vote of the electors thereof. The second section is under consideration and will be read.

The CLERK read as follows:

1. That at said election, separate votes shall be taken upon the the following parts of said amended Constitution, to wit:

1. Upon the article, entitled "The Judiciary."

2. Upon the article, entitled "Railroads and Canals."

Mr. D. W. PATTERSON. I offer the following amendment. Strike out all after the word "That," at the beginning of the section, and insert:

"This Constitution shall be voted for as a whole, and also in the manner following, to wit: and the following Articles shall be submitted at said election, to be voted on together, to wit:

Article No. 1.—Declaration of Rights.

" No. 2.—Legislation.

" No. 3.—Legislature.

Article No. 4.—Executive,

" No. 6.—Impeachment.

" No. 11.—Militia.

" No. 13.—New Counties.

" No. 18.—Future Amendments.

The following Articles shall be submitted at said election to be voted on separately, to wit:

Article No. 5.—Judiciary.

" No. 7.—Oaths of Office.

" No. 8.—Suffrage and Election.

" No. 9.—Taxation and Finance.

" No. 10.—Education.

" No. 12.—Public Officers.

" No. 14.—County Officers.

" No. 15.—Cities and City Charters.

" No. 16.—Private Corporations.

" No. 17.—Of Railroads and Canals.

The following Sections shall be submitted at said election, to be voted on separately, to wit:

Section 3d of Article No. 8 of Suffrage and Election."

Section 4th of Article No. 8 of Suffrage and Election."

Section 3d of Article No. 10, "Education."

Section 7th of Article No. 14, "County Officers."

Mr. HAY. I ask for a division of that amendment, in order that the two questions contained in it may be kept separate. The first division ends with the word "whole," being these words: "This Constitution shall be voted for as a whole."

Mr. D. W. PATTERSON. I only want to state briefly that the Committee on Schedule, who reported this ordinance for voting upon the amended Constitution, of which this amendment is a part, did not deem for a moment that it would meet the approbation of the Convention; but they thought it wise to present a schedule by which the Convention could act with reference to what their determination is as to voting on the articles whole or separately, and that it would be much easier and save a great deal of time for gentlemen to move to add such and such articles, to be voted for as a whole, than for each individual to propose any new article. For that reason I consulted with the chairman of the Committee on Suffrage Election and Representation, and he considered this the proper place for this amendment to be offered, in order to enable the Convention to determine whether to vote for all the articles as a whole, and

if not, how many of them; or still further, whether they would have separate sections submitted. After deciding that, then when we come to the form of the ballot, we shall know exactly how to fix the ticket, because this Convention will fix the ballot definitely and fairly, and it will be printed in order to put the matter before the voters of the Commonwealth.

For that reason I have offered this amendment at this time, and if any gentleman wants to alter this, a motion will be easy to add article No. one or two, or whatever it may be, to those to be voted for as a whole. This is the object of my amendment. Of course it is subject to change.

Mr. HAY. My object was simply to ask for a division of this amendment, to end with the word "whole." There are members of the Convention who are in favor of voting on the instrument as a whole, who are opposed to slicing it up in any shape or manner whatever, who believe that the proper way to submit our work is to submit it as a whole, to ask the general judgment of the people of the State on our entire work as a unit. The question is simply, is this better than the old; is the amended Constitution better than the unamended instrument? And for the purpose of securing a square vote on that question, I ask for a division of this amendment. ("That is right.")

It has been suggested to me that I should reach the object more appropriately, by moving to strike out of the amendment all after the word "whole," and I make the motion in that shape.

Mr. D. W. PATTERSON. Had not the gentleman better take the vote on the division he asks for?

Mr. HAY. Precisely the same result is reached in this way. I make my motion in that shape.

Mr. CARTER. I regard, Mr. Chairman, the question before us as perhaps second in importance to nothing that has been brought before us. I think that a great deal depends upon the manner in which our work is submitted for the ratification of the public. It seems to me that we are treading on very ticklish ground. If the amendment suggested by the gentleman from Lancaster (Mr. D. W. Patterson) is adopted and this process of disintegration goes on, and the articles that he designates be voted down, how in the name of common sense can we tell that what will be left, will be perfect as a

whole? We have considered this instrument as an entirety. We have had our objections to various parts of it, and these objections we have yielded in deference to the will of the majority. We are not proposing to go over the ground; we are not proposing to submit to the people a work which we cannot do ourselves. We cannot as a body, acquainted as we are with this Constitution and with the relation that the various parts of the whole bear upon it, make these selections and tell with what integrity the instrument would remain or how worthy it would be of our support.

Now, sir, I appeal most earnestly to every delegate in this Convention who has our good work at heart and desires to see it become the organic law of this great State, to pause before he commits himself to any such notion of disintegration and, as I hold, ultimate destruction as is proposed by the gentleman from Lancaster. If we cannot so disintegrate it with safety and tell what will remain intact, how can we expect the people to tell? We number it by sections. How are the people, in the limited space of time afforded, to tell what can be certainly struck out without detriment to the whole? I know that the new Constitution made in the State of New York, a few years ago, failed in part from submitting so many things separately, destroying the instrument as a whole. It is an entirety, and I think we all regard it so, and it is so that the people must regard it. Does the good predominate over the evil to such an extent as to make this a good work and fit for their acceptance?

The gentleman presents his report as coming from the Committee on Schedule. I know not by what authority that committee made a report on the subject. When it was referred to them I am not aware; but if it was referred to them it also was referred to a committee that took the matter into serious consideration—I mean the Committee on Suffrage, Election and Representation.

Mr. D. W. PATTERSON. I rise to explain. I know my friend is on the Committee on Suffrage and Election, but the memorial on this very subject of the delegate beside me (Mr. J. Price Wetherill) was referred to the Committee on Schedule.

Mr. CARTER. Referred to the Committee on Suffrage.

Mr. D. W. PATTERSON. Under the authority of that reference by this Convention we made our report.

Mr. CARTER. That does not matter, and I only referred to it to say that I do not desire this Convention to attach any undue weight to it.

Now let me tell you something, in this connection, to show that my position is not entirely imaginary. When this ordinance was referred to the Committee on Suffrage and Election, by the distinguished gentleman from Columbia, it had in, as you notice on your desks, a clause requiring the separate submission of certain sections of the article on the Legislature. The thing was brought to our minds and we discussed the matter, and we saw the evil that would arise. We thought that if we opened this door for the submission of separate sections we could not close it; and we agreed simply to report two articles for separate submission, that is, the majority of the committee did. I am in favor of submitting the work of our hands to the people as a whole. I look at its practical application. If we commence disintegrating our work in this way, and, as I have shown, the people cannot build it up, they cannot tell what deleterious effect the striking out of sections or articles will have. Let me illustrate in the case of the article on Suffrage and Election, which is admitted to be a good article. There are several provisions in that which I was very much opposed to, and if this game is to commence who is to tell where it is to stop? Some of us will try if we cannot get forty-five men here who will be willing to strike out that section which requires the tickets to be numbered; but we do not desire to do so, much opposed as some of us are to it, and it only passed by a majority of six or seven, if I remember aright. But we do not desire to do it. I am only illustrating now how the thing will work practically, if the Convention is going into this work of disintegration.

Mr. J. N. PURVIANCE. I think this Convention would entirely misrepresent the wishes of a large majority of the people of the State if they did not submit some of the articles of this Constitution to a separate vote. It has been generally understood all over the Commonwealth that the Constitution would not be submitted as a whole. A Convention representing perhaps three hundred and fifty thousand of the voters of Pennsylvania

resolved and asked that this Convention should submit the article on Legislation to a separate vote of the people. The voice of that Convention should be respected here, and for one as a member of this body I intend to so far respect it that the article on Legislation shall be submitted as a separate proposition, to be voted on. Then there is the article on the Judiciary, and there is the article on the Legislature, and the article on Railroads, each of which I take it should be submitted separately, and then you may put all the other articles together, and that makes a large portion of the articles of the Constitution, and vote for them together. You will disappoint the expectations of nine-tenths of the voters of Pennsylvania if you submit this Constitution in any other way than by separate articles.

Some propositions have been made here to submit sections of articles separately. To that I am entirely opposed. I am opposed to the submission of anything less than an article and an entire article, and the articles I have mentioned I hope will be submitted as separate propositions to the voters of the State. In Illinois you will find that they submitted a large portion of the Constitution together, and then they submitted some ten articles to a separate vote of the people; and you find there were intelligent discriminations made by the people of that State on the adoption of the several articles, some of the articles receiving a majority of 70,000, others a majority of 100,000, others a majority of 90,000, and so on, evincing a proper and intelligent discrimination. Our people would alike discriminate, and, having no other ticket, and nothing being mixed up in this election but simply the adoption or rejection of the Constitution, the people would have ample time to take up all these articles, make up their tickets intelligently, and vote for the articles they approved, and reject the ones which they did not approve.

I do trust this Convention will consider this matter in the light of answering the expectation of the people of this Commonwealth that some of the articles shall be submitted to a separate vote, not the whole Constitution, because there would be many objections to some portions of it, and that might load down the whole of our work. Now, if this Convention obtains nothing more at the polls than a ratification of the article on legislation, then our time has not been mispent and

we have accomplished a great and good work for the people of Pennsylvania. That I believe would be carried by an immense majority; in fact almost without opposition. Why then put it in jeopardy by attaching to it articles that may be the subject-matter of very serious discussion and difference of opinion throughout the State.

With these views, I hope that the motion will not prevail, that the vote shall be taken on the whole Constitution as we have made it.

Mr. HAZZARD. Mr. Chairman: I cannot agree with my colleague (Mr. J. N. Purviance) in regard to the question of the submission of this Constitution. I think we had better leave the people of Pennsylvania to choose whether the Constitution that we have made as a whole is better than the old one, or not. If it is left to be sliced up into mincemeat, it seems to me that there will be sections all over the State opposed to it. It will be put in such a way that it will not hang together. In Philadelphia the aldermanic system and the spring elections will be calculated to carry many votes against it, and in Luzerne and in Minnequa county, (laughter,) and in other places the new county question will hamper it. In other portions the women school directors' section is obnoxious. Almost every county will have its people devoted to its particular hobby. They will want to revenge themselves on this Convention for not sufficiently adhering to the subjects that have been proposed by them, and others will have feeling against it because their favorite measures are not carried.

Now, I believe the people will decide by a large majority that this Constitution as a whole is better than the old one, and they will put it in on that account, and there will not be so many diversified opinions scattered all over the Commonwealth, a few voting against it here and a few there, and it will not array the influence of the members for the particular hobbies they have been advocating here a whole year, and that they wished incorporated in it. I prefer very much to submit it as a whole. I think it is a great deal better than the old Constitution, and the people will believe the same thing.

Mr. BIDDLE. Mr. Chairman: I cannot imagine anything more calculated to bring our whole work into discredit than the mode of submission proposed in the amendment offered by the gentleman

from Lancaster, (Mr. D. W. Patterson,) that is, to tie together some seven or eight articles to be submitted as one batch of propositions; then to take other articles to be submitted separately; and lastly to take certain sections of certain other articles and have a separate vote of the people upon them.

Now, what have we been doing here since the beginning of January, the seven or eight months that we have been in session? We deliberately resolved in the very start that the Constitution as amended in 1838, was no longer adapted to the people of this Commonwealth. Among our first sessions on a day so early as the fourteenth of November of last year, by an overwhelming vote, we declared ourselves untied by the action of the Legislature, which, by the act of 1872, undertook to prohibit our dealing with certain portions of the existing instrument; and any gentleman who recollects the debate will remember how conclusively the argument, coming from the very distinguished member from York, (Mr. J. S. Black,) then a delegate sitting with us, was answered, and how almost unanimous the opinion of this House was against his view. Steadily from the time we began our labors down to the present hour we have been adjusting and arranging every part of our work, every separate article, with reference to every other one; and now at the close of our work we are asked to tear these articles limb by limb from the general body to which they belong, and cast their disjointed fragments before the community for its action upon them in this mutilated condition. What will the people think? What will the people say if such a course is pursued? You, gentlemen of the Convention, have adopted the alternative—for there are three alternatives presented in the act of 1872—“of making an entirely new Constitution. You might have made amendments to the existing articles, or you might have introduced new amendments for cases which were not provided for. You were told you might do this; but you have not chosen to do this. You have chosen to re-frame the whole instrument; and now, after having spent nearly a year in doing this, after having modeled it as a whole for presentation to the people for their consideration during the interval of your sessions caused by the summer adjournment, you begin to falter, to separate one part of the instrument from other parts, in effect to pick it

to pieces, and you declared by the proposed amendment that certain articles have a paramount value in your estimation, and that "if they are adopted, the people may pass over and vote down all the others." Who ever heard of such a course of procedure as this?

I deny that it is possible to accept one or two of these articles without accepting all. They are all made with a view to the coherence of all the parts. There is nothing but confusion to follow by taking some and rejecting others. Can you fairly assert that the article on Railroads, or the article on the Legislature, or the article on the Judiciary may be adopted, and others left out? They have all points of contact and union where they must or necessarily should meet; and I deny the proposition that we shall have done a great work when we have passed any one of these articles. Not so. Every one of these articles—and every gentleman here knows this, because every gentleman here has experienced it again and again—has been the result of fair compromises. No one article has received anything like absolute approbation; but like sensible men, giving and taking to and from each other, we have taken that which bears the impress of the mind of the majority, as should always be the case. And many gentlemen have yielded their opinions on some articles, because they have been able to obtain in that way the adoption of the views formed and expressed by them upon other articles. It would be unfair, therefore, in that aspect of the question, to the least degree, to take for submission any single article isolated and separated from those which were so connected in the discussion and in the vote. How does any gentleman here now know that if it had not been in the belief that, for instance, the Judiciary article should be framed in a certain way, or the Legislative article in a certain way, the Railroad article would have been found as it now exists? I rather think no man will be hardy enough to say that it would have been so adopted; and yet, under an *ad captandum* view, which seeks to catch the public attention and the public votes upon certain articles, we are arbitrarily taking them out of the whole framework of the Constitution and throwing them separately at the people as if they were everything, and the rest of the instrument was naught.

Mr. Chairman, for one, I would infinitely prefer to continue the Constitution under which we are living, defective as it is in many respects, than to run the chance by a separate submission of separate articles, of having adopted certain provisions which then will be nothing but superfluations upon the body of the existing Constitution, attached to it in a morbid manner and by distorted ligaments where they have no real vital existence or congruity of purpose, and where they can do nothing but harm. Since not harmonizing with the rest of the instrument, they will impede and possibly, to some extent, neutralize its operation.

I am not attempting, nor do I intend here now to state my opinion in regard to what the Legislature meant by sections four, five and six of the act of Assembly under which our work has been done. I leave that to others. I am merely discussing, in the view that we have the right, the policy and propriety of submitting the articles in the way proposed. I do trust, therefore, that the amendment offered by the gentleman from Allegheny (Mr. Hay) to the amendment of the gentleman from Lancaster (Mr. D. W. Patterson) will be adopted, and that we will say, or we ought to say, every one of us having upon some occasion received the benefit of mutual concession, that we mean to present this instrument as an entirety, because, in that way, it best expresses what the people have the right to ask from us, as it certainly thus best expresses our own action; and that we will not act with gross inconsistency, by singling out this article or that article for separate submission, and thus jeopard the fate of the entire instrument before the people.

Mr. LEAR. Mr. Chairman: I hope that this motion, which is, as I understand it, to strike out all after the word "whole," in the substitute-section, will prevail. I want this matter to be presented to us, in the first place, in such a way that we shall have a square vote upon the question whether our work shall be submitted to the people for their vote, to be adopted or rejected, or whether it shall be submitted in detail to be dismembered according to the various conflicting interests of different parts of the State.

It is a most frightful confession for this Convention to make, after having been in session for eleven months and a half, and

during all that period spent our days in labor and our nights in anxious thought to frame and put together an instrument in the nature of a Constitution for the State of Pennsylvania, to say to the people, "we have here the material out of which a Constitution can be made; we have failed; you put it together as you like." Why, sir, the English alphabet contains all the original and primary elements of a Constitution, and we might as well submit that to the people to select their letters and put them together in words, and those words together in sentiments, and those sentiments into propositions of political economy in order to make a Constitution, as to submit that which, by this provision we would confess to be an article about which we have some doubt. If we do not choose to submit the alphabet, let us submit the dictionary.

What else do we do here? We say to the people, "you are better judges than we have been; although we have acted together and in concert and by committee and have considered and reconsidered this instrument, putting our minds and our opinions together and expressing our various conflicting sentiments, yet we have doubts whether there are not some portions of this which you ought to reject, and we submit it to you to select and dismember this instrument and put together a sort of a mosaic that shall consist of that which is good and that which is bad."

Mr. Chairman, it is a beautiful thought that in every block of marble there is a statue, and it only needs the skill of the sculptor to chip away the superincumbent mass, and from that block there will emerge a work of most superb symmetry and beauty. We submit this, our block of marble for the people, living remote from each other, though a hundred miles apart, to chip away at the instrument which we submit to them and chisel off the superincumbent mass until they can find somewhere imbedded and embodied in what we have rudely thrown together an instrument which the people, and not this Convention, dare call a Constitution!

Why, sir, have we come to that pass, after our deliberations for this length of time, that we are willing to say that our work is unworthy of our constituents, the people of Pennsylvania; that we are willing to admit that some of it may do, but about some of it we have doubts, and

that the people living remote from each other, without conference or consultation, shall get together at the respective election polls and select from these different members of a disjointed instrument that which they shall put together in their own way, or which the counting election officers shall put together and call a Constitution? Such a word is a misnomer. It is not a Constitution. The people, with that sort of power over this instrument, and with the various and conflicting interests that will be brought to bear, may, by the manipulation of politicians and other interested parties adopt the most objectionable features of this instrument which we have agreed upon, and leave out that which, above all others, the sensible men of this Convention would most like to preserve.

I shall never agree to submit our work in that way. I shall never agree to confess that we have so imperfectly performed our work, and that we have so much doubt whether it ought to be adopted or not, as to allow it to be thus adopted by piecemeal or rejected by piecemeal; and for fear (and I do not say this with any idea of making a threat or inducing anybody to go for this proposition or against it) that some of the most objectionable features of this instrument would be adopted, and the better rejected, I would vote against the whole instrument, because this section even allows us the right to do that; whereas, if it were submitted as a whole I would do this—I would not say to-day what I would do when I came to vote even upon that, but I would consider it carefully, deliberately; I would weigh it with the instrument we are departing from, and whichever I found to commend itself best to my judgment, understanding and conscience, I would adopt.

Sir, whenever the people of a State are prosperous and happy, and their personal liberty and private rights are secured, the Constitution of that people is performing its proper and legitimate functions. When we came together in this Convention we found a great, strong, powerful, prosperous and happy people in the State of Pennsylvania, and we can live yet under the old Constitution as powerful, prosperous and happy as we have done heretofore. I take it that we are not going to partition even if this instrument be not adopted; but if it be better than the other, let us have the opportunity to

consider it. I should like to have a full opportunity to do so, and then I want to come square face to face with the old instrument and say we will have that or we will have this, but we will not take away part of that and part of this and dovetail them together, and make a piebald that no man will know the color of from beginning to end.

Mr. ARMSTRONG. The vote we are about to take will undoubtedly be a test vote, and in that light I think the time is well spent in giving it deliberate consideration. The question is not without its difficulties, but it is no more difficult than other important questions which this Convention have met, and met as I believe, discreetly.

If we submit this Constitution as a whole, I think there is force in the argument that it will enable those who are opposed to its adoption for various reasons to consolidate their strength in this regard; that all who are opposed to it for any reason voting against it, consolidates such a vote against the entire instrument; but that is not in my mind by any means conclusive. On the other hand, sensible men will look at this instrument and balance its advantages with its disadvantages, just as we are necessarily compelled to do. There are few men in this Convention who could take up this instrument, and with deliberate judgment give their undivided approbation to all its provisions. I could not, and I doubt if there are others here who could; but as a whole instrument, and expressing the judgment of this House, I give the instrument and every part of it my most cordial and entire approbation. So far as I can form a judgment by comparison with the Constitutions of other States, it is my deliberate judgment that we have formed the best Constitution of any State in the Union, and I stand prepared to go before the people of my own section of the State upon that issue.

Now, there is a practical question: how shall it be submitted? Take up, if you please, any one of these propositions, and suppose that we are to have a right to discriminate, and we undertake with deliberate judgment to discriminate; take up the judiciary article. We vote upon it as a whole, adopt it or reject it. The judiciary article embraces not only the Supreme Court, in regard to which we were almost unanimous, but the common pleas, in regard to which we greatly dif-

fered; the jurisdiction of aldermen and justices of the peace, in regard to which we were almost unanimous, and the magistracy of the city of Philadelphia, in relation to which there were great differences of opinion.

Now, take up any other article; take up that on legislation. We differed widely upon many of the most valuable provisions of that article. If we undertake to vote upon these questions, how will an intelligent voter act? Suppose he is entitled to vote thus: "Upon sections sixteen, seventeen and eighteen of the article entitled 'The Legislature.'" I venture to say there is hardly one man in this Convention, after all our eight months of work on the subject, who is prepared to say just what those sixteenth, seventeenth and eighteenth sections provide, except in a general way. How is a voter to ascertain that? When he comes to vote, he has not the Constitution before him: neither has he time to investigate.

Suppose we put it in its most favorable aspect, that we shall require the Secretary of the Commonwealth to furnish great placards containing the Constitution and require them to be posted up at every election poll; how many voters would study that Constitution so as to give an intelligent vote upon the question whether the sixteenth, seventeenth and eighteenth sections of a particular article should or should not be in the Constitution? It is not practicable.

Then again, we have built up an instrument which is dependent one part upon another; we have constituted an instrument which we believe to be a system, in which the railroad article and the article upon corporations are largely dependent upon each other. Suppose we submit the railroad article alone, and it is stricken out and the article on corporations is adopted; it is then imperfect in some degree. If we adopt the article on railroads and leave out the article on corporations, it is still more imperfect.

I do not desire at this late day to consume the time of the Convention by elaborate discussion; but taking every view that we can of this question, if we strike out any article of this Constitution we have marred the symmetry of the whole and rendered the instrument imperfect just to that extent. Voters cannot discriminate in that way. It is laying a burden upon them which is too heavy to be borne. They cannot discriminate if they

would, and they will not if they could. We have adopted a Constitution which embodies the united sentiment of this Convention as an entirety, viewing the whole relations of this question to the whole people of the State, and we submit that Constitution in this impressive language:

"We, the people of Pennsylvania, grateful to Almighty God for the blessings of civil and religious liberty, and humbly invoking His guidance, do ordain and establish this Constitution for its government."

It becomes a new instrument, taking the place of the old and substituted for it, and just in proportion as we strike out particular articles of this Constitution, just to that degree do we interrupt the harmony of its operation and the symmetry of the instrument as a whole.

Now without prolonging this discussion, I admit the deliberate conclusion in my own mind, for the reason I have stated and others which I would gladly state except for want of time, in that it is much the wisest decision of this Convention to submit the Constitution as an entire instrument. If the people do not want our work submitted as we submit it, let them find another Convention or commission or any other mode that will correct existing abuses; but I believe that eight months' work of this Convention has been well bestowed and that we do submit to the people a Constitution which will find approval in the judgment of the intelligent and honest men of this State everywhere. I repeat the remark I made once before in this body, that we may naturally anticipate a violent, active opposition from the corrupt political rings of both political parties and that if we have not produced a Constitution, which will provoke such opposition it has not vitality enough to deserve our approbation.

In view of these things, I say, let us meet that opposition fairly before the people. Let us place our work fairly before them with an undiminished confidence. Let us say to them that we believe in our own work, that it is our work as a Constitution, not as a part of a Constitution, and when we submit it to them we will defy the corruption of the State to break down the work of honest men.

Mr. CURTIN. I will not prolong the debate. We have spent eight months in discussing the various articles that we propose to offer to the people of the State

of Pennsylvania. In our deliberations we have filled eight volumes of debates. We have reconciled differences. We have changed opinions. We have remodeled and readjusted the various articles, and the sections of the various articles, and, as the result of our deliberations, we offer to the people an entirely new organic law. I yield my opinion to the better judgment of my colleagues and I give to this instrument we are about to offer to the people of Pennsylvania, the approbation of my judgment, and I am prepared to go before the people and advocate it from the beginning to the end with all the power I have.

Listening to the able arguments of the gentleman from Bucks (Mr. Lear,) the gentleman from Philadelphia (Mr. Bidle,) and the learned chairman of the Committee on the Judiciary, (Mr. Armstrong,) I have formed my conviction that we shall perform our work best by offering to the people of Pennsylvania this instrument as it is. Having labored for eight months to put together a perfect Constitution, a new organic law for the people of Pennsylvania, it is not for us at the close of our labors to tear it into fragments and submit it in pieces. I will vote for the amendment of the gentleman from Allegheny (Mr. Hay) that we submit the Constitution as it is to the people of Pennsylvania for their approbation or for their disapprobation, and I have no fears of the result.

I do not believe the people of Pennsylvania will reject the honest, earnest efforts of this body of citizens to give them improvements in their organic law. I believe the people of Pennsylvania to-day are panting for the reforms there made, and I am for giving to the people an opportunity of voting for the Constitution in its entirety without the change of a single sentence from beginning to end. Let us not allow those who desire special articles submitted to a separate vote to destroy the unity of our work.

Before we adjourn, I suppose it will be the pleasure of this Convention to raise a committee to offer to the people of Pennsylvania an address on our work. I would like to know how the members of this Convention, acting under oath, and giving approbation to their entire Constitution, can issue that address to the people of Pennsylvania without asking them to vote for all of their own work, and accepting the entire Constitution. No coun-

mittee raised in this Convention could offer any objection to any article in that instrument. As was said by the gentleman from Bucks, by separating this Constitution into fragments we declare, while we recommend the people of Pennsylvania to accept of the Constitution we give them, and while we declare our belief that we have made a better organic law than that under which we now live, that our faith in our own work is not sincere by separating it into parts, which they may well suppose we desire them to reject.

With a sincere belief that the work of this Convention will meet the approbation of the honest people of Pennsylvania, and that no combination of politicians, no action of rings, no force of political displeasure can defeat the will of the people as expressed by this representative body, let us submit the Constitution as a whole and abide confidently the result.

Mr. WM. H. SMITH. I hope we shall present this Constitution as a whole as the best result of our long deliberation. Let us not divide it in any particular. Let us show the people that, as in the deliberations of this body we have made sacrifices to produce a perfected instrument, so we ask them, if they have particular objections to particular parts, to still take it as a whole as we give it to them. It may be said that there are certain parts of it that many members of the Convention have opposed long and diligently and will not like to vote for, but I hope they will accept the instrument entire. I hope and trust that no member of the Convention will vote in favor of cutting this Constitution to pieces in order that he may have the opportunity of voting against some particular part that he could not have removed here. I hope the Constitution may be submitted to the people just as it stands, every line and every word without blot or erasure.

It may be said that it may be possible some will have to surrender their private judgment on a few points if they are to vote for the Constitution as a whole. Who can live in society and not surrender private judgment now and then? Who that are members of a political party have not supported candidates for public office when personally they would not speak to them on the public streets, because the party had made the nominations and the party good required it? Here no party issue is at stake and the

success of no party candidate is involved, but the weal and welfare of a great community; and even if personal differences exist on unimportant sections, let us accept the whole Constitution as we have framed it. Our work deserves success. We have presented as perfect a Constitution as we have been able to prepare, and I do not want to see it disturbed or cut to pieces in any respect. If we have any feeling of personal pride or regret either at the adoption of any particular measure—and some of us have had inserted clauses which were very dear to us—or at the rejection of some cherished amendment, let us all agree to support the Constitution as a unit, to work for it in its entirety without disturbing one single line of it.

Mr. SIMPSON. I cannot vote for the amendment of the gentleman from Allegheny. I cannot vote to submit this Constitution to the people of Pennsylvania to be voted upon as an entire instrument, so that they must either accept or reject it as a whole. I am reminded that about twenty-three or twenty-four years ago, in a very dark period of the history of this country, the intelligent body known as the United States Senate had before them a bill designed to give peace to a then distracted country. That bill consisted of some four or five separate parts or measures. It passed through the various stages of reading until it came to the final vote, and upon the final vote the bill was lost from a union of opponents to different fragments; but when it was sub-divided, and presented again to the Senate of the United States in four or five different bills, each bill received a majority of the votes of the United States Senate and became the law of the land.

If such a body as the Senate of the United States, with all its intelligence, can be operated on in that way, how much more may such a result be looked for in such a community as we have in Pennsylvania, comprising thousands and tens of thousands of men who cannot read at all? I would submit this instrument to the judgment of every voter, to vote against a single word if he saw proper so to do, and to vote for all the rest. I would submit it to him that he might vote to strike out any one or more of the sections, or of the different articles; and I am afraid that unless we present our work to the people and give them the freest liberty and the widest latitude to pass their judgment upon it, it will meet

with failure at the hands of the people. If we submit it to them in such a way that they have a right to vote against any part and for the rest, we may expect such a result as was seen in the United States Senate on the occasion to which I have referred, and in the election upon the amended Constitution of Illinois. There the Constitution was submitted to separate vote, and although in certain portions of the State there was great hostility to particular sections of the new instrument, yet as an entire Constitution it was adopted by the people. Submit this so that the people can vote against a single section, and I am confident it will be adopted. Submit it as a whole, and I am afraid it will stand a very good chance of never being the organic law of Pennsylvania.

Mr. HARRY WHITE. I did not intend to press my views upon this question until I went to the Clerk's desk and discovered the precise character of the amendment before the committee of the whole. I observed that the delegate from Lancaster upon my left (Mr. D. W. Patterson) offered an amendment to submit certain features of the Constitution, and the delegate from Allegheny (Mr. Hay) moved a division of the amendment to strike out certain parts of it, which, if adopted, commits us to the policy, or commits this committee of the whole at least to the policy of submitting this Constitution as a whole. Against this I raise my earnest protest, both as a question of expediency and as a question of power.

Now, Mr. Chairman, on the threshold of our separation after the completion of our work, it is well for us to pause a moment and consult as to what is prudent to be done in this regard. Within six weeks from next Tuesday we have provided that this Constitution, in such manner as shall be determined under the law of this Convention shall be voted upon by our masters, the people. What is most expedient in the premises to secure the adoption of our work, or that part of it which should be adopted? This is a Constitution that we are submitting to the people—one of the dearest rights of the people, that which regulates their government. It is made up of different parts which are as diverse as noon-day from midnight. It is proper that we should give the people an opportunity to familiarize themselves with all the differ-

ences existing in its different parts and express their opinions accordingly.

As to the question of power, I find in our organic act, that which is familiar to you all, that one-third of all the members of the Convention shall have a right to require a separate and distinct submission to the popular vote of any change or amendment proposed in the Constitution. This they have as a clear legal right. What is that predicted upon? Is it an ebullition of folly? Does it proceed from some idle brain? No, sir! It is the gathered experience of more than a century. The culmination of this idea was found in the Constitution which is now the highest law of Pennsylvania. In the amended Constitution of 1838, I discover a provision for submitting amendments to the Constitution proposed by that Convention to a separate vote of the people. I discover there that amendment or amendments, half a dozen at a time if you please, can be submitted in the Legislature, and if ratified by a subsequent Legislature, are then to be submitted to the people, and voted upon by them, and if they receive the sanction of a majority of the people, become the law of the land. How? As a whole? No. The separate parts or separate amendments submitted by the Legislature to the people of the Commonwealth, are voted on separately and distinctly. Those which receive a majority of the popular vote pass into the organic law. Those which do not are null and void. We here are following on that safe line which our predecessors established for us. Suppose we look abroad through our sister States. We are familiar with the practice in New York. They did so there. We are familiar with the practice of the State of Illinois. We know what they did there, and it is within all precedent and the logic of all precedent, that we have a right to insist that the letter of the act of Assembly creating this Convention shall be regarded.

One other word as to the expediency of doing this. I have listened patiently to the earnest words which have fallen from the lips of some gentlemen here, who have scorned the idea of submitting propositions to the people to be voted upon separately, and objected to it as resulting in a work which is mosaic in its character. On the contrary, this is predicated upon the logic which is to be found in

American politics—differences of opinion among the people. This Convention, in its procrasted deliberations upon the different propositions before it has demonstrated that fact, and the delegate from Lycoming (Mr. Armstrong) and the delegate from Centre (Mr. Curtin) have sought, unconsciously possibly, to mislead and misguide this Convention with remarks that it is impossible to adopt any part of this Constitution without having an inharmonious whole. I deny entirely that assertion. Pick up the article on railroads and canals. Nothing is to be found in the Constitution as we have it to-day regulating this subject inconsistent with its provisions. If it receives the assent of a majority of the people, it will be a new feature in our organic law. If it is dissented from, it does not create any discord whatever. Take up the report of the Committee on Legislation, now the article on Legislation, and read it over. You discover there that every feature of that article is separate and independent, except two sections. Let the people vote upon them separately, and let them vote them down, and they will take nothing out of the present Constitution. In the section of the ordinance providing for a separate vote upon the question of legislation, how easy it is to add the words:

"If the majority of the votes on the article on Legislation shall be against it, it shall be null and void except the two sections that are found in the present Constitution."

So also in that feature of the article on the Legislature which necessarily excites so much comment, that which regulates the manner of apportionment. In our Constitution to-day we find one system. We propose a new system. Vote separately on that, and if the majority of votes are against it the old system continues. Away with such sophistry! It is used to sustain a position which is untenable in itself.

Further than that, I maintain that if this Convention of the whole does vote to sustain the amendment of the gentleman from Allegheny (Mr. Hay,) it will amount to nothing. It will be nothing more than a *brutum fulmen*, if you please. Forty-five men in this Convention being one-third of the whole number, have a right under the law, if they stand together, to require the submission of any separate article or section of this Constitution to a separate vote. I stand upon the law. I

stand upon principle in this matter. The logic of necessity, the logic of force sustains us who resist the adoption of this amendment. We want nothing more than the law, and we will be satisfied with nothing else. We ask gentlemen in this Convention to give the same regard to law that we who insist upon separate votes desire always to do.

Mr. LAWRENCE. We have almost finished our work, Mr. Chairman. We are just about on the eve of taking one of the most important votes that we have taken in this Convention. We met here at the call of the people to do a great work. We have labored eight months industriously, and now we propose to finish our labor and submit the result to those who elected us, and those who have the right to pass upon it. The question is shall we, after all this labor, submit our Constitution as a whole, or by fragments, to the people. For one, I have many days and weeks since been impressed with the necessity of submitting this Constitution as a unit. I have no doubt about the wisdom of such a course.

I endorse the Constitution we have framed. Is there any member on this floor, after all the discussion we have had, after the feeling manifested here in the contests upon our work, all the discussion we have had upon the different questions presented from time to time in preparing the several articles with all the diligence and care that we could bestow, is there any man on this floor to-day, at this late hour who is prepared to say that any article in this Constitution which he may name is not superior to a similar article in the old Constitution? Is there any man on this floor who has been willing to give proper attention to his duties here to inform himself correctly, who does not know, as my friend from Lycoming has said, that this instrument taken as a whole is superior to any instrument of the kind to be found between the two oceans?

Why, sir, what do the people expect of us to-day? They do not expect that we shall submit the work of this Convention to them by separate articles or separate parts of articles. Surely not. If I understand my own people, in the western part of the State, I believe there is not an honest man in Washington county who will read and reflect, (and our people do read and reflect,) who will not sustain the work of this Convention. I do

not want to go before them and ask them as they go to the polls to vote for this article and against that, for this section and against that. I will tell them as you, Mr. Chairman will tell the people in Greene county, that this Constitution is the best Constitution which could be made under the circumstances; that one hundred and thirty-three men coming here with an honest purpose have labored for eight months to perfect this instrument, and that we believe we are submitting to the people an instrument which may not be perfect, but which is as nearly perfect as any instrument of this nature which has ever been presented to the people of any State in this Union.

Why should we separate it? Do you propose to take the article on Railroads and Canals and present it to the people to let them vote it down and leave the article on Private Corporations standing? The two are so closely connected together on many subjects that to destroy one is to mutilate the other. So also with the article on Legislation, which is one of the most, if not the most important article we have; do you propose to take that which is popular with everybody, which everybody admits to be correct, which if it is sustained at the polls will cut up all special legislation and purify the Augean stable at our State Capitol, and submit it separately, when you may need the just popularity of that wise article to assist in carrying some that are not so favorably regarded? I do not. I want to tell my people that this article is probably the most important article we have adopted, and I want also to tell them that other articles are important, and that they are all as nearly perfect as we can make them.

I have not heard all the arguments that have been made on this subject. I came into the hall after my friend from Philadelphia (Mr. Biddle) had spoken, having been engaged in committee service; but I have heard the masterly argument of my friend from Lycoming (Mr. Armstrong) and I have not heard a ground which I regard as rising to the dignity of an argument in favor of submitting the Constitution separately. I do not mean any disrespect to the gentleman from Indiana, or anybody else; but I believe it is of the utmost importance, as we have but a very little time left, and as the people have but a short time to examine it and cannot, perhaps, analyze it in all its parts, that we submit it as it is, and pre-

sent it to the people as we have framed it, and at their firesides, or on the public hustings, wherever we meet them, assure them that in our judgment, framed after the labor of eight months, this is the best instrument we could prepare, and ask them, as citizens having an interest in this great State, a common interest with us for themselves and their State, to adopt it as the fundamental law of the State, to be handed down to posterity for years to come.

These are my views and I have no hesitation about them. I declare here as my honest judgment, with a large experience for years among men, that this is the way to carry this instrument. This is the way to have it adopted by the people, and I repeat that in my own county of Washington where I reside and where the people understand this subject, if there are five hundred votes given at the polls, there will not be twenty cast against this Constitution. So it will be in all the rural parts of the State. Men here in the city and in the towns and villages will vote against the instrument if they have personal interest in matters affected by the Constitution. I tell you if the article on Legislation is passed, as it will be agreed to by the people, the work of many men in this State will be destroyed. The vultures and cormorants that we have heard so much about will not crowd around the halls at Harrisburg as they have done from one year to another, as you know very well, Mr. Chairman. Their work will be gone. The work of the rings that have been referred to, and the men who set themselves up in particular bodies here and there to manage party operations in the counties and in the State will be to a great extent done away with. I say that the people understand this question and they know that they are deeply interested in it, and they want the privilege of voting for this Constitution at the polls.

If I could change some few things in some of the articles, I would do it, but I come here as a delegate to this Convention to attempt to do my duty. I may not have done it fully; I do not agree with you all in reference to some parts of the articles, but I have agreed to compromise my judgment with yours. I have agreed to take the articles and sustain the Constitution as it is presented, and I will do so; and if we had time and it were considered necessary that I should go before

the people, I would do it in any possible stage and defend our work.

I trust every man on this floor feels in this way. I believe there is not a member on the floor who will not vote for this Constitution as proposed. I do not believe there is a delegate who can lay his hand on his breast and say that these articles have not been prepared with care and with the wisest reference to the public good. Every man who has labored in committee or in this Convention, as far as I know, has been actuated by the one purpose to do his duty.

Mr. MANTON. Mr. Chairman: If I had the faith that the gentleman from Washington has, I would talk in this body just as he does; but, sir, I stand here this day not possessed of that faith. This Convention, Mr. Chairman, came from the people, and if we were to express what is at heart the wish of the people of this Commonwealth, it would be to take and submit certain sections, certain articles of this Constitution to the people separately.

Now, sir, the proposition we have here this afternoon is that the Constitution must be submitted as a whole, and it would seem almost from the arguments which have been used here that it is a new-fangled idea that has grown up among the delegates of the Convention that if we should submit this Constitution separately, we should not be doing justice to the judgment of this Convention. But, Mr. Chairman, let me call the attention of this Convention to one fact. The people who elected us and sent us here expected that after all our work was done we would submit certain sections of this Constitution to them separately, and it is no new-fangled idea. The Constitution of the State of Illinois, which has been referred to five hundred times in this body, was an instrument which was submitted separately. Wonderful to tell, some eight or nine articles were submitted separately, and more wonderful to tell, every one received the approbation of the people of that State. And how was it in the State of New York a few years ago, the Constitutional Convention of which was in session eight or nine months? They submitted their work after it was done, and what was the result? Wonderful to tell; the whole instrument went down, and nothing but the article on the judiciary, which was submitted separately, was saved.

Mr. CHAIRMAN. The interests of the people of this Commonwealth are at stake, and had I the faith of the gentleman from Centre (Mr. Curtin) who addressed you so eloquently this afternoon. I would talk just as he talked. If I believed for one moment that outside of this Convention the press all over the State would go to work and endorse the work of the Convention, then I would say, submit the Constitution to the people as a whole. If I believed, with no imputation on any gentleman on this floor, that every man could lay his hand on his heart this afternoon and say he would go to his constituency and earnestly urge the adoption of this instrument before the people, I too would say then that I would submit the Constitution as a whole and not in parts. If I believed that the rings in this State, irrespective of party, or rather composed of a combination of both parties, were in harmony with our work, then I would say to the delegates in this Convention, submit this Constitution as a whole; but I cannot believe, neither do I think it is in the hearts of the people to believe, that we can send this instrument to them without giving them some choice in the matter.

I merely rose in my place for the purpose of saying that I shall be very sorry indeed if this Constitution is submitted as a whole. I would rather see certain sections taken out under the restriction imposed by the law of the Commonwealth, which provides that one-third of the delegates in this Convention shall have the right to say that certain propositions shall be submitted to the people for their approval or rejection. When I can have this right, I shall certainly support this Constitution.

And allow me to say here in conclusion that as a delegate on this floor, while there are things in this instrument which I do not like I shall go to the people and to the people I shall appeal for them to accept this instrument as they receive it, whether it be in sections or whether it shall be as a whole; and I hope that every other gentleman in this body feels so, but I fear not.

Mr. WOODWARD. Mr. Chairman: I have no objection to saying as the gentleman from Washington county (Mr. Lawrence) did say, that this is the best Constitution between the two oceans, and that it is a great improvement on all the

forms of government heretofore framed for the people of Pennsylvania. I doubt the good taste of such speeches on our part, but still I have no objection to them. If gentlemen really think that they have accomplished so great and so good a work as the gentleman from Washington evidently does, I have no objection to all the self-laudation they choose to apply; but I cannot concur in all that was said by the gentleman from Washington. I believe that a much more sober statement would be that there are some improvements in this Constitution upon our old Constitution, and for these good things I have voted on this floor and I intend to vote, if I am permitted to do so, at the polls; and I shall invite all my neighbors and friends to vote for them.

But, sir, the proposition as I now understand it, is to submit this Constitution as a whole to the people of Pennsylvania, to give those of us who want to discriminate no chance whatever to vote for the parts that we approve and against the parts that we disapprove. The motion is to strike out all after the word "whole" in this section. Well, sir, I say at once that if the majority of this body decide that the Constitution shall be submitted as a whole, I mean to vote for it, as a whole, because I think the good that is in it predominates over the evil that is in it; but I shall feel that it is a sore burden laid upon me to vote for the whole of this Constitution, and I dissent, *toto cælo*, from the assertion that it is in all respects an improvement upon the old one. You talk of the judiciary article, and I undertake to say that there is not a well-informed judge in this Commonwealth who will not tell you that the old Constitution is better than the new—not a judge now living and on the bench. I have talked with a number of them, enough to justify me in making this prediction.

Mr. LAWRENCE. On that point, if the gentleman will allow an interruption, I will say that I have had conversation with one judge in the State, who considers it a great improvement.

Mr. WOODWARD. Then I am mistaken to the extent of one judge. I do not know of any judge who does not think exactly as I have stated.

Mr. Chairman, just reflect a moment. When the Constitution of 1837 was brought in, the people had before them one or two specific grievances. The main one was the executive patronage. The

Governor appointed almost all our officers. He even appointed our sheriffs, because, although the people elected two men for sheriff in every county, the Governor had a right to appoint either of them, and Governor M'Kean appointed the lowest in Luzerne county, on one occasion, because he had the power. He said that no power which the Constitution had vested in him should rust for the want of use, and since the Constitution gave him the right to take the lowest on the return he would take him; and when somebody told him that the Constitution meant that the Governor *may* appoint the lowest, but that *may* meant *must* appoint the highest, he replied that if *may* sometimes meant *must*, it sometimes meant *wont*, and he appointed the lowest man. The Governor also appointed all the justices of the peace, appointed all the judges; he appointed all the county officers, clerks, prothonotaries, &c. This was felt to be a great grievance, and that Convention was convened principally for the reduction of such excessive Executive patronage.

At the time that Convention met we were just on the eve of the railroad era that has burst upon the world with such wonderful results in the last twenty-five years. I remember going from this city up to Middletown on a car which the passengers had to get out of occasionally and push over the grades, which were too heavy for it. We knew comparatively nothing about railroads then; the wildest man in the land did not dream of the development that we have all since witnessed; and therefore railroad corporations and other corporations (because other corporations were at that day about as few and feeble as railroads were,) did not attract any particular attention. The Convention did not provide for railroads particularly.

Just so in regard to the Legislature. Nothing peculiar called for reform in this department. Mr. Buchanan told me that when he was in the Legislature, the most exciting question that was up was as to the right of the fishermen in the Susquehanna to draw their seines. There were no lobbyists in those days. There were no exciting questions, and no great corporations to seduce the virtue of legislators, and therefore the Convention did not pay any attention to that subject.

Thus it was that the Constitution of 1837 was an expression of the people of

Pennsylvania on what they had found in their own experience to be a great grievance; a reduction of executive patronage; that was the main point. Well, sir, if there was a man in that body—and there were some few very wild men, although the body was generally conservative—if there was a man in that body who proposed to elect a judge, I do not remember who he was. I think my friend Tom Earle, who died some years ago, was the author of about as many radical propositions as any member; but I do not remember that he ever proposed anything so monstrous as the election of a judge. I am sure that the subject, if it was proposed, never got an hour of respectful consideration. I was on the Judiciary Committee; the late Judge Hopkinson was chairman of the committee; and while we did make justices of the peace elective, I do not remember that anybody ever suggested that the politics of the elections should be carried into our judicial establishment. And thus the Constitution of 1837 was formed to express the opinions of the people upon what had become a great public grievance, and the judiciary was left, to be sure, with a tenure reduced from life to a period of years, because the life tenure seemed to be hateful to the people of Pennsylvania and we reduced the life tenure to a term of years; but nobody proposed that judges should be elected.

I said that we were just at the birth of this railroad era which has come upon us, and with it have come some grievances. What are they? Now our Legislature is filled with lobbyists. We have a class of men who have been often described on this floor as men who interfere with the course of legislation, and great public scandals have gone out about the Legislature. I do not stand here to endorse them or to reiterate them. I only speak of the fact that the Legislature of Pennsylvania has fallen into great public reproach with or without reason. Now, sir, I think that the people of Pennsylvania meant that this Convention should restore the character of the Legislature.

Mr. BUCKALEW. The time for the recess having almost come, I move that the committee rise.

The motion was agreed to. The committee rose, and the President having resumed the chair, the Chairman (Mr. Purman) reported that the committee of the whole had had under consideration the

“ordinance for submitting the amended Constitution of Pennsylvania to a vote of the electors thereof,” and had directed him to report progress and ask leave to sit again.

Leave was granted to sit again to-night. The PRESIDENT. The hour of five having arrived, the Convention takes a recess until seven o'clock.

EVENING SESSION.

The Convention re-assembled at seven o'clock P. M.

ORDINANCE OF SUBMISSION.

Mr. D. N. WHITE. I move that we go into committee of the whole for the further consideration of the ordinance of submission.

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

The CHAIRMAN. The committee of the whole has had referred to it the ordinance for submitting the amended Constitution of Pennsylvania to a vote of the electors thereof, which was under consideration at its last session. The pending question is on the amendment of the gentleman from Allegheny, (Mr. Hay,) to the amendment of the gentleman from Lancaster, (Mr. D. W. Patterson,) on which the gentleman from Philadelphia (Mr. Woodward) had the floor.

Mr. J. W. F. WHITE. In the absence of Judge Woodward, who is entitled to the floor, I should like to make a few remarks on the question pending.

I believe the original proposition before us was the report of the Committee on Suffrage and Elections. That report proposed submitting two articles separately, the article on the Judiciary and the article on Railroads. To that the delegate from Lancaster offered as an amendment the report of the Committee on Schedule, proposing various articles to be voted upon separately, and portions of other articles. To that amendment the delegate from Allegheny (Mr. Hay) moved the amendment which is now the immediate question before us, and if I understand it, it is to strike out all of the previous amendment and declare that we shall submit the Constitution as a entirety, or as a whole, to the vote of the people. I may say, in the first place, that I favor submitting the Constitution in the main as a whole, but at the same time I shall favor the submitting of one or two articles to a separate vote.

Mr. Chairman, the original act of the Legislature provided that the question whether a Convention should be called to revise the Constitution should first be submitted to a vote of the people. We have heard here in this Convention a great deal of complaint about the action of the Legislature on various subjects, that they have so often misrepresented the people, that they have so often assumed power not legitimately or properly belonging to them, and that they have so often disregarded the wishes of the people. The Legislature could have called a Convention to revise the Constitution without any vote of the people in the first place, but they did not choose to do so. They did not venture upon that step without first consulting the people, and the only question submitted to them was, should a Convention be called for this purpose. A majority of those who voted on that question voted "aye," but every delegate knows that a very slim vote was had in the State on the subject. Necessarily the Legislature had to pass another act on the subject, providing for the election of delegates and making all the necessary arrangements for the holding of the Convention, designating the number of persons that should be elected, how they should be elected, how the Convention should proceed, and what should be done with their work. That act of Assembly provided, among other things, that one-third of the delegates should have the right to require a separate vote upon any proposed amendment to the Constitution.

Sir, why was that done? The Legislature, as the representatives of the people, were unwilling to commit the question of the revision of the Constitution to a Convention without, in the first place, requiring their work to be submitted to the approval or rejection of the people. In addition to that, the people were unwilling this Convention should be called and meet unless there was a limitation of the powers of the Convention. They were unwilling that a majority here in the Convention should propose amendments to the Constitution and compel the people to vote upon them, and they said that one-third of the delegates should have the right to demand a separate vote upon any question that they desired. Under that act of Assembly we hold our seats here. We were elected knowing that that was the act of Assembly, and on the faith of that accepted our nominations from the

various parties and were elected. When we met, one of the first things we did was to pass a rule to carry out in good faith that act of the Legislature, to declare that one-third of the members of this Convention should have the right to require any amendment to be submitted to a vote of the people separately. On that act of Assembly, on that rule of our body we have proceeded and finished all the articles of the Constitution. We must take the act of Assembly as the act of the people calling us here. They were the proper representatives of the people. Only through them could the people speak. They have spoken and they have demanded of this Convention that any question required by one-third of the delegates shall be submitted separately, and we pledged ourselves, one to the other, at the beginning of our work, that we would do so. Now I submit it is not good faith to the people after we have gone on and completed our work, to deny the right of one-third of the delegates to demand the separate submission of any proposition in the Constitution to a separate vote. It is a fact, and members of the Convention well know it, that many of the controverted sections have been carried by a light vote, by a vote of less than forty-five, which is one-third of the entire body. Now, shall we, after having gone through our work on that act of Assembly, on that rule, deny to one-third the right of submitting any question separately? Mr. Chairman, for one I shall stand to that. If forty-five delegates of this Convention ask the submission of any article or any distinct subject for a separate vote of the people, I shall stand to it.

I do not ask myself for the submission of many propositions. I would like the three sections of the article on the Legislature in relation to the Constitution of the Senate and House to be submitted separately; I would like the Judiciary article to be submitted separately; and I believe it is the general understanding, and has been all along, that the Railroad article should be submitted separately; but I do not ask it, I do not want it. I shall vote for the Railroad article, if submitted separately, as I voted for it here in the Convention, although there are two or three things in it that I do not like. The two subjects over which we have had the most discussion are the Judiciary and the Railroad articles. We have differed more on those two articles than on any

others. The widest differences of opinion have existed on those two. The Railroad article fortunately was put in a shape that met pretty generally the approbation of the Convention. The final vote upon it was seventy-six to eleven. There was as much unanimity ultimately on that article perhaps as on any other except the article on Legislation and the article on the Executive, on which we were nearly unanimous. But we all know that grave differences of opinion and great dissatisfaction existed in regard to many features of the Judiciary article. That one I want submitted separately. I am satisfied that the rest shall go; but I shall vote for submitting any article or any distinct subject to a separate vote where forty-five members of the Convention ask it.

Mr. Chairman, I dislike this idea that we shall not give the people the opportunity of voting separately on what we believe they all want. I dislike the idea that we shall say to the people, "you shall not have the article on Legislation and the article on the Executive unless you take something else you do not like." That is the proposition.

The CHAIRMAN. The gentleman's time has expired.

Mr. WOODWARD. Mr. Chairman—

The CHAIRMAN. Three minutes of the gentleman's time remained unexpired when the committee rose this afternoon.

Mr. WOODWARD. I have no disposition to detain the Convention on this subject. I was alluding to the circumstances under which the people felt themselves called upon to amend their Constitution in 1837 and again in 1872. Now what was the necessity at this time? A great deal of it was imaginary, but still there was felt to be a necessity. It was to protect legislation from the practices which had grown up, to restrain corporations, to purify the ballot-box, and to relieve the Supreme Court. I think those were the great purposes for which this Convention was called.

With what has been done in the way of purifying the Legislature, I am pretty well satisfied. I think we have acted wisely, and I shall support our amendments on that subject with great pleasure.

Connected with the subject of the purification of the Legislature is the purification of the ballot-box, and our amendments on the subject of suffrage, I think, are salutary and wise.

Then what have we done with respect to corporations? I confess I do not feel myself well satisfied with what this Convention has done in that regard, and yet I am prepared to vote for what has been done in respect to corporations in general and railroads in particular.

But, sir, what have we done to relieve the Supreme Court, burdened as they are all over Pennsylvania with business that they cannot do, and compelled to do what they did last year in this city to the scandal of justice. They added a week to their term after they had finished the usual term, and they advanced in that week causes that were far down the list, because they were waiting, because rich men and rich corporations were interested in them, and had large sums of money depending upon them—passed them right over the heads of cases in which humble men and widows and orphans were interested—people who wanted their cases decided as well as the millionaire and corporations. Ah, sir, the court sat a week last spring to hear such a class of privileged cases to the utter neglect of a very large list of just as meritorious cases, and cases that better deserved a hearing, because they were prior on the list. The pressure brought to bear upon the court was such that they were obliged to make this distinction in favor of a class of litigants who were themselves the least meritorious. I mention this as an illustration of the ill effect of overwhelming that court with judicial duties.

Now, sir, what have done to remedy that? Absolutely nothing. We have added two more politicians to that bench, whoever shall be able to navigate the political waters with sufficient skill to bring his bark into that harbor. That we have done, and then we have provided for an increase of salary, and we have provided for a twenty-one years tenure of these new judges. That is all we have done. Does that relieve the Supreme Court? Nothing is done to relieve the Supreme Court of the over-crowded lists in every part of the State.

The CHAIRMAN. The gentleman's time has expired.

Mr. WOODWARD. I only desire to add, and that is the sum of all I have to say, that I think the article on the Judiciary ought to be submitted to the people separately. I want to vote against it; but if

you will insist upon submitting it as an entirety, I shall vote for the Constitution.

Mr. MANN. Mr. Chairman: I rise merely to reply to so much of the argument of the gentleman from Allegheny (Mr. J. W. F. White) and the gentleman from Indiana (Mr. Harry White,) as implies that those who are in favor of submitting this Constitution as a unit are in favor of disregarding the act of Assembly. Nothing is further from my idea. I stand by the act of Assembly which called this Convention into existence, as firmly and as unwaveringly as either of those gentlemen, and I hold that it is the undoubted right of any forty-five delegates of this Convention to submit any article, or any section of any article of the Constitution we have prepared, to a separate vote of the people.

I resisted the resolution of the gentleman from Columbia (Mr. Buckalew) this morning upon that ground. I held that the act of Assembly was binding upon us. I was opposed to rescinding a rule which was passed in accordance with the act and intended to carry it out. I stand there now, and if forty-five delegates vote in favor of the separate submission of any section of this Constitution, I shall assert that it is their undoubted right to secure such separate vote.

But, Mr. Chairman, that is not the issue here at all. The question is one of expediency entirely. We are all agreed that this law is binding upon us. The only question is, cannot we secure substantial unity here in favor of united submission. There is no question as to disregarding the law. Every delegate here, I apprehend, is prepared to stand by it. Having conceded that, I do not see what there is left in the argument of the gentleman from Allegheny. The object of those who are asking unity is to convince delegates so that there shall not be forty-five delegates demanding the separate submission of any article or of any section of any article.

Upon that subject I acknowledge myself a convert and a very late one. Until to-day I was in favor of a separate submission of one or two articles; but I acknowledge that the arguments offered here by gentlemen in favor of united submission and the influence and effect which those arguments had upon myself have made me a convert to their proposition. I have never had so much encouragement for the entire adoption of the

work of our hands as I have felt since those arguments were made. I saw at once a spirit going over this Hall that argued success; for I tell you, sir, if the delegates of this Convention go home with a feeling that part of our work is imperfect and ought to be defeated, it is an imputation and it implies defeat from the start. Let us go out with a feeling that we have done our work as well as we could, and done it honestly, and therefore it is entitled to the support of every honest man in the State. If we go out in that spirit we shall win—undoubtedly we shall win.

I repeat, Mr. Chairman, that the arguments made this afternoon in favor of unity did inspire courage and hope upon this floor that has not been felt for months. I felt it myself; I saw it all around me; and there is good reason for it. In unity there is strength always, and if we are united in support of this entire Constitution, the people will be united. All honest reformers throughout the Commonwealth will feel the inspiration that goes out from this hall. If there is unity here, there will be unity upon the part of those who desire reform throughout the Commonwealth. The example set by us will be followed by the people. If we submit our Constitution entire, they will vote for it and it will be agreed to. If we take a single article and say that that article shall be submitted to a separate vote, it will imply that the people ought to vote it down and is not worthy of their support. Let us not send out any such imputation upon our work. Let us not make any such invidious distinctions. Some of the committees that prepared articles had much more difficult work to perform than others. Those that had the least difficult work to perform presented articles that had the least opposition. The general submission of their articles would imply that they had done the labor efficiently and carefully, while the separate submission of another article that required much more skill, tact and labor to prepare, would imply that the committee having that article in charge was not as skillful as the other. I am opposed to any such invidious distinctions. Let us stand or fall together, and if we make up our minds to that we shall not fail at all. There are throughout this Commonwealth many honest men who believe that the delegates of this Convention have endeavored

vored to do their duty, have tried to be faithful in the discharge of their trust. There is no mistake about that, and we shall have the support of all that class of people and the united determined voice of this Convention that our work is worthy of their support will be all that is necessary to secure it.

There are, I suppose, in this Constitution, sections and parts of sections scattered through its various articles to which there is more or less dissent. We are not to suppose that every delegate is entirely satisfied with our work. Of course not; but the question is upon the constitution as a whole and how is that to be answered? Why, sir, every delegate who reads it, every honest man in the Convention or out of it, who reads it through, will see that, taken as a whole and compared with the old constitution, it is immeasurably superior to it, and that it will purify the Commonwealth of Pennsylvania of many of the ills under which we have labored. And the Constitution will be adopted. There is no need of any fear or any doubt about it. If we are ourselves faithful, and if we have faith to stand together here and now for the whole work of our hands and have it all voted upon together, without invidious distinctions and without specious distinctions, from our unity there will come strength and success.

Mr. LITTLETON. I do not rise so much for the purpose of attempting to enlighten the Convention, but simply in justice to myself, to give expression to my views upon this question, because my views have undergone an entire change from to-day's discussion. I confess that up to the present time, I had been of the opinion that it was our duty, if we differed upon these articles, to require a separate submission; but whilst I agree that if one-third of the delegates of the Convention shall require a separate submission of any single article it should be done, in accordance with the language and the spirit of the act of Assembly which called us together, yet I have reached the conclusion that as to my own judgment, the discretion rests with me whether or not any such separate submission shall be had. I feel that I have a right, as a matter of judgment, to say whether in my own opinion the Constitution is good enough as a whole or whether it should go in fragments; and as I take a comprehensive view of the results of our labors,

as I look at the Constitution in every particular, the sections to which I do not agree as well as those which I favor, I am bound to say that, taken as a whole, it is a vast improvement over that which we now have, and over any other Constitution of which I have any knowledge. Therefore, feeling thus, I willingly give my adhesion to the opinion that it should go before this community as a united work, as the result of our labors.

Why, if as a matter of necessity there should be a separate submission of each article, this large combination of men from every part of the State? Why one hundred and thirty-three men chosen from all the varied paths of life to perform the work of drafting a new Constitution for the people of the Commonwealth? Thirty or fifty men would have answered every purpose just as well.

Having thus changed my conclusions, I feel it due to myself and due to the Convention to acknowledge that the discussion to-day has effected this change in my mind. There are things in this Constitution of which, so far as my judgment is concerned, I cannot approve. I do not agree with this much discussed article on Railroads and Canals. There are many things in it that to my mind are illiberal, and that will tend to unnecessarily and unwisely tamper these great improvements; but I think notwithstanding all that, weighing all things together, the new Constitution is better than anything we have, and therefore we should vote for it as a unit.

Mr. STEWART. I do not understand the design of this amendment to be a denial of the right of one-third of all the members of the Convention to require the submission of any article separately. If I understand it correctly, the object of the gentleman from Allegheny (Mr. Hay) is simply to draw from this House an expression upon the subject as to whether or not it will be policy to submit the whole Constitution as an aggregate or to submit the articles separately. The vote is to be regarded simply as an expression of the opinion of this body on that question. If I did not so understand it, my vote would be different from that which I shall give. We have here before us a perfected Constitution, the result of our labors for almost one year. It is a composite work. As was said this afternoon during this discussion, it is the result of mutual concession, and the com-

promise of individual opinion. It stands there as the best thought of this body. It stands as an entirety in itself, and it is idle for gentlemen to say that you can extract from it, here and there, promiscuous, separate and distinct articles, and still preserve the symmetry and harmony of the whole. There is an inter-relation, there is an inter-dependence in these different sections which requires a joint submission, or otherwise the symmetry is destroyed.

I can understand how certain articles can be taken from that Constitution and added to another Constitution, and thereby perfect another Constitution. I can understand just as well how you can take certain provisions from this present Constitution of ours, and yet make it an admirable document; but as I said before, there are certain sections which are inter-dependent, and so inter-related that to destroy the one is to destroy the harmony of the whole. Why, sir, take the article on the Legislature, and take the other article on Legislation. Does not this Convention know that when we voted for biennial sessions of the Legislature, it was with the understanding that we were to out of special legislation? Now if you vote down the article on Legislation and vote up that on the Legislature, do you have a harmonious and symmetrical instrument? In that way I see how the harmony and symmetry of this instrument can easily be disturbed. Gentlemen can rise on this floor and say that they are opposed to certain articles in the Constitution. One gentleman is opposed to the article on Private Corporations, and another to the article on the Judiciary. There is not a gentleman on the floor of the House who cannot point to something to which he is opposed. The policy of the Convention is to submit the Constitution as a whole; otherwise you have to submit to the dictation of every particular individual who takes exceptions to that instrument, for you cannot submit a certain article separately because one gentleman is opposed to it, and refuse to submit another article when other gentlemen are opposed to that.

I can understand how gentlemen are opposed to the judiciary article, and there are other articles in this Constitution to which others are as certainly opposed, and I have no doubt that there are gentlemen in this body who might exercise a wise discrimination and se-

lect certain articles and say "we will submit them separately." But how long will it take us? We have reached our present result after months of labor by mutual concession and the compromise of individual opinions; and if after all this concession and compromise we now assume to determine this new question, it will require a month to decide it to the satisfaction of everybody. We shall have a dispute and a discussion which will last for weeks; and I submit it is the duty of this Convention, consulting the interests of the Commonwealth and the interests of the people who are to be governed by this organic law, to submit it as an entirety and let them pass on our work. We have given it our best thought and our best labor. They will give it their best consideration.

Mr. BUCKALEW. The question debated this afternoon and again this evening is rather a question that we shall be called upon to meet than the present one actually before us. The pending motion is an amendment to an amendment. It proposes to strike out from the amendment of the gentleman from Lancaster all that part of his amendment which does not relate to the submission of the Constitution single and entire. If this amendment to the amendment shall prevail, then the question will be between the amendment of the gentleman from Lancaster as amended and the report of the Committee on Suffrage, Election and Representation. That is, the question will then be between an amendment which submits the Constitution entire to a vote of the people, and the report of the Committee on Suffrage, Election and Representation, which submits the Constitution to a single vote of the people with two exceptions, those being the article upon the Judiciary and the article on Railroads and Canals. The debate to which we have listened will then bear its legitimate fruit in voting upon these two propositions.

I shall vote for the amendment to the amendment now pending, and I suppose, with pretty general unanimity, the Convention will give its voice in its favor, for I do not believe that there is any considerable number of members who are willing to submit fifteen separate votes to the people on this Constitution, and particularly in the form proposed by the gentleman from Lancaster in his amendment. I shall not take any time in dis-

cussing that further, but I desire in view of what has been said and repeated several times to say that in my opinion the act of Assembly so often referred to bears no such construction as has been given to it in regard to submitting amendments by this Convention. The clause which has been cited several times and insisted upon as giving to a minority of one-third of this Convention the right, the absolute legal right, to take this new Constitution and tear it into fragments, and compel the majority of this body to submit the instrument to the people piecemeal, was written by me. In 1871, when it was proposed that the Convention to be called by the Legislature should have limited power, power only to submit amendments to the present Constitution to a vote of the people, the provision was proper. In the act of 1872 it was again re-inserted, and had its proper office, and would have had legitimate application if our work had been different. That act of Assembly—I mean the Convention act, as it is called—provided that this Convention should have power to submit a new Constitution to the people for their adoption or rejection. That is what it says in direct, plain, good English terms, and it goes on and says, “or” (using the alternative) “the Convention may submit amendments to the present Constitution of the State, or submit separate propositions of amendment.” Then follows the body of the section, and down at the end is the proviso copied from the bill of the year before, which says: “*Provided*, That one-third of all the members of the Convention shall have the right to require the separate and distinct submission to a popular vote of any change and amendment proposed by the Convention.”

The meaning of this is as plain as language can make it. It is that if this Convention does not make a new Constitution and submit it to the people, but takes the alternative in the statute of proposing amendments to the old Constitution, those amendments are then to be submitted to a separate vote on the demand of one-third of all the members of the Convention. That is all. Well, the Convention has made a new Constitution and we have a right to submit it entirely if we choose, or divide it up into parts if we please, but by a majority vote. If instead of taking this course we had drawn up amendments to the old Consti-

tion to be voted for, the vote being a choice between the new text and the old, as to each amendment, then this clause would have come into play and the same rule would have obtained here that obtains in the Legislature in amending the Constitution, because when the Legislature propose amendments to the Constitution of the State, they must submit each amendment separately and distinctly so that the people can in each case vote between the old text and the new amendment.

It follows from what I have said that there is no obligation in this Convention statute upon us with regard to voting in this Convention upon the subject of submitting the new Constitution. It is for us to submit it entire or in parts as we please.

The gentleman from Lancaster, (Mr. D. W. Patterson,) in words which seemed to imply a taunt, this afternoon suggested that I had abandoned some idea or principle of minority representation by not insisting on the application of this novel provision to our work, where it has no application. Mr. Chairman, it is true that legislative bodies and other bodies sometimes act by a two-thirds rule or a three-fourths rule, as well as by a majority or a plurality rule; but in all these cases the limitation is simply a check upon the majority, to prevent the majority from doing something. These rules were all intended as checks for the protection of minority interests; but what is this clause if you apply it to our new Constitution? It is not a check upon the majority; that is not it; but it is a power in the minority of one-third to overrule the majority and to do something itself. That is minority rule, pure and simple. A minority of one-third, by its own vote, shall do something, not prevent the majority from doing something or check it, but it itself shall rule the whole body by its own vote; it shall, in defiance of the will of a majority of the body, have its way! I am not for that and never was.

Mr. Chairman, I have but a word to add. As to this question of submitting the Constitution entire or submitting it in parts, as I stated at the outset of my remarks, that question will be determined on the next vote between the report of the committee and the amendment, and I do not think it worth while to say anything on that direct point until that question arises.

Mr. HOWARD. Mr. Chairman: I feel myself admonished by the proceedings taking place around me, that our labors are fast drawing to a close, that in a few short hours this body of delegates here assembled will disperse and return to their constituents. I hope when they return to their constituents, they will go with a solid and a united Constitution, that they will go with a Constitution that they themselves are willing to endorse, that they are willing to say themselves, as a whole, is a good thing to recommend to the people of this Commonwealth.

Mr. Chairman, in my judgment, a submission in detail is no endorsement at all by this Convention; it is equivalent to saying that the delegates who have spent ten months here in earnest labor and debate, as earnest perhaps as ever engaged the attention of any body of men, have not been able, in all that time, to agree upon a Constitution as a whole, but that we have agreed to differ, and the best we can do is to submit article by article to the vote of the people of the Commonwealth separately.

Now, Mr. Chairman, suppose this Constitution to be submitted in the mode proposed, for instance, by the delegate from Lancaster; how are the people to judge of its merits article by article and section by section? Who will be likely to do the scratching that will be done? Is it not virtually handing over the work of this Convention to the politicians of the Commonwealth, who would like if possible to strike it down; that is, to that portion of them who will be willing to strike it down and ruin it if possible in the estimation of the people? The great body of the people are not lawyers. Perhaps it is not unjust to say that they are not judges of Constitutional law in its bearing upon practical government. They look to others who are acquainted with those principles for advice, and they will be advised in their different localities; and we know that a submission of our Constitution in parts will give great power to the men who are opposed to the labor of this Convention in advising the people what they should vote for and what they should strike down.

Now, Mr. Chairman, will it not be wise for us if we could agree here upon our own work, just as has always been done in every government by the people and for the people, to make concessions. We know that the whole structure of our

government has been established by making concessions and compromises.

Mr. Chairman, I believe the time spent this afternoon and this evening in the debate that has occurred has been worth thousands of votes to the proposed Constitution. For the first time during our deliberations have delegates risen in their places and put the stamp of their approbation on this Constitution as a whole. Heretofore we have been divided; we have been discussing its details. Many times there has been excitement, sometimes a little bad blood; but I believe if we could unite upon the result of our labors now and let the people see that we ourselves endorse it, that we ourselves recommend it to them as a whole, the people will take the advice of this body and they will go to the polls strengthened, and they will adopt it by an overwhelming majority.

I am aware that the delegate from Indiana would like to have his particular pet, the article on Legislation, submitted separately; but I presume that that delegate has no special pride or any vanity to gratify, because as chairman of that committee, we all know that he has performed his duty well, and the best endorsement and the best eulogy that he can receive is to let that go into the Constitution with the joint labors of his brother delegates and let it be endorsed by the people, and the fruits that will grow out of that article on the subject of legislation in the future, by restraining special legislation, by striking down the corrupt lobby, if nothing else had been put into that article, will always cause the chairman of that committee, and all its members, to be gratefully remembered by the people of this Commonwealth.

Mr. Chairman, within a few short hours I was in favor of submitting some of these articles to a separate vote, but the moment I came to consider the question it struck me: what will people say if we strike this article out; strike out this section and say that must be voted on separately? It is equivalent to saying that the Convention themselves could not agree upon their own work, they could not agree among themselves that it was worthy of the support of the people. I think the Constitution will be strengthened by letting the united voice of this Convention go forth to the people of the Commonwealth that they endorse their own work,—not let it go out in miserable

fragments, but let it go out in one united volume to the people, with the endorsement of the Convention, and, I repeat again, it will receive the endorsement of the people beyond all peradventure.

Mr. H. G. SMITH. Mr. Chairman: I do not wish to detain the Convention in the discussion of this question, because from every indication there seems to be a marked unanimity of feeling, and a unanimity of feeling in a direction which two or three days ago did not seem to exist. As the hour of separation draws nigh, the members of this Convention seem to come closer and closer together. As the hour for the perfection of their work approaches, they seem to appreciate the labors of a year. This Convention is the creature of the people of this Commonwealth, the offspring of a demand universally felt throughout the length and the breadth of this State. As was well said by the distinguished gentleman from Philadelphia (Mr. Woodward) today, in 1838 there were but few important and exciting questions which agitated the people of this Commonwealth, when the Convention which reformed the Constitution that is now in existence was called together. He well stated it when he said that the paramount question was on restricting executive patronage. But, sir, let any member of this Convention compare that single question with the questions which have agitated the people of this Commonwealth for five and ten years past. Let an estimate be made of the extent to which the minds of the people of this State were stirred then, and the extent to which they have been stirred within the few years that have gone, and to which they are stirred this night as we sit here. Instead of a single question we have a number, each of them of greater importance than that which agitated the people of this State when the existing Constitution was formed. For a year nearly, this Convention has been in session; there have been eager and spirited discussions on various questions, but it will be noted and remembered of the members of this Convention that upon the passage of the articles which are now contained in this new Constitution which we have formed there was remarkable unanimity of sentiment, and that the majorities in favor of the different articles proposed were uniformly large, larger than was to have been expected from the discussion which followed

as the various sections of the articles were proposed.

And now, sir, that our work is nearly finished, now that we have it before us as a whole, the question comes up as to how we shall submit it; and here we find, as we found throughout the length and breadth of the discussions in this Convention, that there is no dividing line so far as parties are concerned. I have been a careful noter of the votes of this Convention, and not a single time within the halls of this building, I am glad to say, has the firebrand of partisan politics fallen to divide us. Men have differed here, but they have differed honestly, as honest men and without respect to partisan politics; and when we come to submit this Constitution, this work of ours, to the people, the people will not inquire in regard to this matter; but the two great political parties of this State, the honest men in each, will go shoulder to shoulder together to the polls, each striving with the other to inaugurate those reforms which all honest men feel are necessary and imperatively demanded.

One word more. If there be a single article which demands separate submission, it is that upon which one hundred and odd lawyers of this Convention could not agree. I do verily believe that if the policy which the distinguished and dead President of this Convention followed when he appointed the Railroad Committee had been pursued in the appointment of the Judiciary Committee, and if that committee had been composed entirely of laymen, a judiciary article would have been reported here which would have been more in consonance with the views of the one hundred and odd lawyers than the one they have now.

Mr. LANDIS. Are you not a lawyer yourself. [Laughter.]

Mr. H. G. SMITH. I used to be one. [Laughter.] But, sir, I agree in this matter with several of the gentlemen who have spoken. I do not think that a vote for the amendment of the gentleman from Allegheny to the amendment of my colleague is a vote that will preclude the separate submission of any article hereafter, but that this vote is an expression of our opinion with regard to our work. We say here by our vote when we vote "aye" to this, that we believe this work which we have done to be a good, an honest, a substantial work; that we believe this Constitution as a whole to be a

fit one for the adoption of the people of this good old Commonwealth. It may not be all that we desire it should be; but the men in this body and elsewhere throughout this Commonwealth who pay attention to our work will be forced to conclude, with the distinguished gentleman from Philadelphia, when the question is presented to them, if it shall be so presented, that they will vote for it as a whole rather than vote against the good in it.

I will not detain the Convention any longer. I believe we are ready and prepared to vote. I am glad to see, that as the hour of dissolution approaches, the members of this Convention are drawing closer and closer together. I am glad to see that almost unanimous appreciation of the correctness of the work that has been here done, which seems to prevail. I will not delay a vote any longer.

Mr. TEMPLE. I should like to have the pending question stated for information, so that we may know what we are voting on.

The CHAIRMAN. The question is on the amendment of the gentleman from Allegheny (Mr. Hay) to the amendment of the gentleman from Lancaster (Mr. D. W. Patterson,) to strike out all after the word "whole," so that it will read: "And be voted for as a whole."

The amendment to the amendment was agreed to, there being on a division, ayes eighty, noes twenty-six.

Mr. HAY. The amendment of the delegate from Lancaster, as I understand it, now reads simply: "And be voted for as a whole." That amendment is offered as a substitute for the second section, but it is not in the proper form for a section. It begins with the word "and," and has no connection whatever with the section which precedes it. I move to amend that amendment further by striking out the words that I have read, "and be voted for as a whole," and inserting: "That at said election the proposed Constitution shall be voted upon as a whole." That is simply changing the phraseology to meet the necessity of the case.

The amendment to the amendment was agreed to.

Mr. BUCKALEW. Now, if the amendment shall be adopted, we can vote this section down, because the first section will be complete without it.

The amendment as amended was agreed to.

Mr. D. W. PATTERSON. I offer the following amendment, to be added to the section:

"That article No. 17, on Railroads and Canals, be submitted to the people to be voted upon separately."

I simply ask for a vote on the amendment.

The amendment was rejected.

Mr. HARRY WHITE. I desire to know what section is before the committee?

The CHAIRMAN. The Clerk will read the section as amended.

The CLERK. Section two of the ordinance reported by the Committee on Election, Suffrage and Representation, as amended on the motion of Mr. Hay, reads as follows:

"That at said election the proposed Constitution shall be voted upon as a whole."

Mr. BUCKALEW. Now, Mr. Chairman, the section as amended, as a matter of course, should be voted down, because it is contained in the first section. That section provides generally for the submission of the new Constitution as a whole, and this was an exception to the first section. Now, in the form in which we have it, it is totally unnecessary, because it is provided for in the first section.

Mr. ARMSTRONG. I do not understand that. Will the gentleman read the section, that we may vote intelligently.

Mr. BUCKALEW. Perhaps the Clerk had better read it.

Mr. CHAIRMAN. Does the gentleman from Lycoming ask that the first section be read?

Mr. ARMSTRONG. Yes, sir; I want to see the connection.

The Clerk read as follows:

"I. That the amended Constitution prepared by this Convention, be submitted to the qualified electors of this Commonwealth for their adoption or rejection at an election to be held on the third Tuesday of December next; except as hereinafter ordered and directed, the said election shall be held and conducted by the regular election officers in the several election districts throughout the Commonwealth under all the regulations and provisions of existing laws relating to general elections."

Mr. BUCKALEW. Now, read the second section as amended.

The Clerk read as follows:

"II. That at said election the proposed Constitution shall be voted upon as a whole."

Mr. ARMSTRONG. The gentleman from Columbia tells us that as a matter of course that section should be voted down, and I want to know why. I think it expresses just what the Convention means, and I do not see why it should not be voted in.

Mr. BUCKALEW. I have no objection, except that the first section says that the amended Constitution shall be voted for or against at a particular date, and then the second section says that the Constitution shall be voted for or against as a whole.

Mr. LITTLETON. I suggest that the expression "as a whole" be inserted in the first section, and then the second section will be unnecessary.

Mr. ARMSTRONG. I propose now, that there may be no misapprehension about this matter, to insert the words "as a whole" in the first section, so that it will read: "That the amended Constitution prepared by this Convention be submitted as a whole." Then that section will cover the ground.

Mr. HUNSICKER. Oh, no; let it stand as it is.

The CHAIRMAN. Do I understand the gentleman from Lycoming to move to amend the first section or the second section?

Mr. ARMSTRONG. Will the Chair state the position of the question distinctly, so that we may understand what we are doing? There is evident confusion in the minds of members, and I confess there is in my mind. I want this Constitution to be voted upon as a whole, and I want to know how to vote to accomplish that purpose.

The CHAIRMAN. If the committee will keep order, the Chair will state the precise question before the committee. The first section of the ordinance was adopted this afternoon. When the committee resumed its session this evening, the question was on the second section, and the question now before the committee is on the second section as amended; that is, the amendment of the gentleman from Allegheny (Mr. Hay) to the amendment of the gentleman from Lancaster (Mr. D. W. Patterson) as further amended by the gentleman from Allegheny, which the Clerk will read.

The Clerk read as follows:

"That at said election the proposed Constitution shall be voted upon as a whole."

Mr. HARRY WHITE. I desire to strike out and amend as follows:—

Mr. MANN. How can it be struck out? We have just put that matter in. We cannot strike out what we have just inserted. I raise that point of order.

The CHAIRMAN. The Chair sustains the point of order. What has just been inserted cannot be struck out.

Mr. HARRY WHITE. I desire to add the amendment I have just offered to the end of the section.

Mr. J. M. BAILEY. I believe there has been nothing inserted. The motion of the gentleman from Allegheny (Mr. Hay) was to strike out, but not to insert.

Mr. TURRELL. I suppose we are entitled to have the amendment read, that we may know what it is.

The CHAIRMAN. The Chair was about to direct the clerk to read the amendment of the gentleman from Indiana, for information.

Mr. MANN. It does not make any difference what the words are. You cannot strike out matter that has just been inserted.

Mr. LAMBERTON. Let it be read first, so that we may know what it is.

Mr. MANN. I make my point of order to the motion, not the words.

The Clerk. The proposition is to add at the end of the section these words:

"That at said election separate votes shall be taken upon the following parts of such amended Constitution, to wit:

1. Upon sections sixteen, seventeen and eighteen of the article entitled 'The Legislature,' relating to the reorganization of the General Assembly and the apportionment of the members thereof.

2. Upon the article entitled 'Railroads and Canals.'

3. Upon section sixteen of the article entitled 'The Judiciary.'

4. Upon the article entitled 'Legislation.'"

Mr. WHERRY. I rise to a point of order. My point of order is, that the Convention having voted in the words, "That the proposed Constitution shall be voted upon as a whole," the amendment of the gentleman from Indiana is not now in order.

Mr. HARRY WHITE. I do not desire to strike them out. I propose to add these words.

The CHAIRMAN. In the opinion of the Chair, the amendment of the gentleman from Indiana is not in order, the words proposed to be added to the section having just been stricken out by a vote of the committee.

Mr. HARRY WHITE. Allow me to correct the Chair. My amendment is different from the proposition which was submitted by the committee originally. I have added two or three clauses to the proposition of the committee.

Mr. DALLAS. I rise to a further point of order, that the motion of the gentleman from Indiana is at least inconsistent with what the House has just done. Any exception is inconsistent with the idea of the submission of the whole.

Mr. WHERRY. Certainly; that is the point.

Mr. HARRY WHITE. I submit that the point of order is not correct. There is no inconsistency whatever.

Mr. DALLAS. It is not debatable.

The CHAIRMAN. The committee will preserve order. The Chair has decided, and so decides again, that the point of order is well taken. The amendment of the gentleman from Indiana is not in order. The question is on the section as amended.

The section as amended was agreed to, there being on a division, ayes sixty-eight, noes thirty-one.

The CLERK read the next section as follows:

"III. The Secretary of the Commonwealth shall, at least twenty days before the said election, furnish to the county commissioners of each county properly prepared printed ballots for the said election; the number of ballots so printed shall be three times the number of voters in such county, and the said ballots shall be accompanied by a printed letter of instructions, directing the form of all necessary blanks, tally-lists and returns."

Mr. BUCKALEW. There is a misprint in the third line. The word "printed" should be "furnished."

The CHAIRMAN. That correction will be made.

The section was agreed to.

The CLERK read the next section as follows:

"SECTION 4. The county commissioners of the several counties shall, immediately

after the receipt of the said circular of instructions, cause all blanks, tally-lists and forms of returns to be properly prepared and printed, and at least five days before said election cause to be fairly distributed to the several election boards in each election district in their respective counties, the ballots, blanks, tally-lists and returns hereinbefore provided for."

The section was agreed to.

The CLERK read the next section, as follows:

"V. At the said election the ballots shall be in the following form, for all persons giving affirmative votes:

'NEW CONSTITUTION.

'For the new Constitution and for each of the several propositions separately submitted, not struck out with pen or pencil, and against all those struck out.

'1. For the article entitled 'The Judiciary.'

'2. For article entitled 'Railroads and Canals.'

Mr. BUCKALEW. I move to amend by striking out all after the word "Constitution," in the third line.

The CHAIRMAN. The delegate from Columbia moves to strike out all after the word "Constitution," to the end of the section. The part proposed to be erased will be read.

The CLERK read as follows:

"And for each of the several propositions separately submitted, not struck out with pen or pencil, and against all those struck out.

"1. For the article entitled 'The Judiciary.'

"2. For article entitled 'Railroads and Canals.'

The amendment was agreed to.

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

Mr. HOWARD. It will be necessary to amend it now.

Mr. LITTLETON. The word "new" is unnecessary in the last line. It already says "for the Constitution." Let it be designated outside. I move to amend by striking out the word "new."

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

The amendment was agreed to.

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

Mr. HARRY WHITE. I offer the following substitute: Strike out the section and insert:

"At the said election, the ballots shall be in the following form, for all persons giving affirmative votes:

'NEW CONSTITUTION.

'For the new Constitution and for each of the several propositions separately submitted, not struck out with pen or pencil, and against all those struck out.

'1st. New Constitution.

'2d. The same sections of the Article on the Legislature as are designated in the original report.

'3d. The Article on Legislation.

'4th. For increased representation in the Legislature.

'5th. For limited voting for judges.

'6th. For uniform municipal elections.'"

One word of explanation. We may as well take our time on this matter. The amendment I have proposed is designed to regulate the ticket to be voted. The proposition I have submitted is plain and explicit. The effect of it will be to allow an expression of opinion on the question of increased representation, on a division of the article on the Legislature, relative to apportionments in the article on Legislation of section sixteen of the article on the Judiciary, which provides for the limited vote on the election of Supreme Judges, and on the article which makes municipal elections uniform. These six propositions are all provided for in the amendment which I have first offered.

The CHAIRMAN. The question is on the substitute offered by the gentleman from Indiana.

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

Mr. HOWARD. This section, it seems to me, will have to be amended by striking out all after the word "form," in the second line, down to and including the word "votes." "For all persons giving affirmative votes" seem to be mere surplusage. I would have the section read as follows:

"At the said election, the ballots shall be in the following form:

'NEW CONSTITUTION.

'For the new Constitution.

'Against the new Constitution.'"

The CHAIRMAN. Does the gentleman from Allegheny move that as an amendment?

Mr. HOWARD. Yes, sir.

Mr. MANN. That will not answer. That will make everybody vote for and against the Constitution both. [Laughter.]

Mr. HOWARD. No.

Mr. MANN. Certainly it will. If the ballot is to be "in the following form," then it is to have all the form there. If the Convention desires to furnish a negative vote, then say what that vote should be. The section as it now stands provides what the form for an affirmative vote shall be. If we want to provide for a negative vote, all right, but if we adopt the amendment of my friend from Allegheny, we shall have no vote at all. We will all have to vote for and against the Constitution too.

Mr. J. M. BAILY. I offer this as an amendment to the amendment: Strike out the section, and insert:

"At the said election, the ballots shall have on the outside the word 'Constitution,' and if the voter proposes to give an affirmative vote, the words, 'For the Constitution.' If he proposes to give a negative vote, the words, 'Against the Constitution.'"

Mr. HANNA. I would like to inquire what would be the effect of this? If we provide in the third section that the Secretary of the Commonwealth shall print the tickets to be voted, and that he shall furnish tickets to the quantity of three times the number of voters in each county, I would like to ask the gentleman from Huntingdon what he proposes by this amendment, whether the Secretary of the Commonwealth shall print three times the number of tickets for the Constitution and also three times the number against the Constitution; or whether they shall both be upon one ticket as the gentleman from Potter (Mr. Mann) suggests? I think we ought to understand this matter distinctly, because my view of it is that the Secretary of the Commonwealth should print only the tickets for the Constitution.

MANY DELEGATES. That is right.

Mr. EWING. As I understand it, and understand the gentlemen around me who have joined this love-feast what we are holding to-night, in which my friend (Mr. Howard) has been lovingly embracing the chairman of the Committee on the Judiciary (Mr. Armstrong) and in which I look for the railroad representative (Mr. Cuyler) to be soon embracing

the gentleman from York, (Mr. Cochran,) I understand that the gentlemen who have been so loud in their denunciations of Philadelphia voting want a ticket only for the Constitution.

MANY DELEGATES. That is all we want.

Mr. EWING. And they will not allow any tickets against the Constitution, even in Philadelphia, where, as we have been informed, they allow a man to go to the polls and vote, even if he does not belong to the right party and is not going to vote for the right candidate, but only forget to count his ticket. [Laughter.] These gentlemen ought to be liberal enough to allow those who are opposed to the Constitution to have a vote. It seems to me that a remarkably easy way to fix this is to change the general arrangement that is proposed in this section, that is on each ticket to have "For the Constitution" and "Against the Constitution," and provide, as is done here, that one or the other shall be stricken out. Then one ticket will answer.

Mr. BUCKALEW. The next section arranges that, and this section without any further amendment, is all right.

The CHAIRMAN. The question is upon the amendment to the amendment.

The amendment to the amendment was rejected.

The PRESIDENT. The question recurs upon the amendment of the gentleman from Allegheny (Mr. Howard.)

The amendment was rejected.

Mr. HAY. I desire now to inquire whether we are upon the fifth or the sixth section.

The CHAIRMAN. We are upon the fifth section.

Mr. BUCKALEW. We have not reached the sixth.

Mr. HAY. It seems to me that the fifth section is the section which provides fully for the manner of voting for or against the Constitution, and there is no necessity whatever for having two sections for that purpose. The section now as I understand, it reads:

"At the said election the ballots shall be in the following form for all persons giving affirmative votes:

'NEW CONSTITUTION.

'For the new Constitution.'"

I now move to amend the fifth section by adding to the end of it as it now stands the words,

"And for all persons giving negative votes:

'NEW CONSTITUTION.

'Against the new Constitution.'"

That completes the section as I understand it, and provides for both affirmative and negative votes completely. I can see no necessity, after the votes this Convention have given, for the sixth section as it stands at present.

Mr. LITTLETON. I desire to further amend the amendment by striking out the word "new" from the ticket. There is no necessity for it at all. The ticket ought to read:

"For the Constitution," or

"Against the Constitution."

Mr. ARMSTRONG. The word "new" need not be put on the inside of the ticket, but it should be on the outside. On the inside let it read:

"For the Constitution," or

"Against the Constitution."

Mr. BUCKALEW. I hope it will be stricken out on the outside.

Mr. LITTLETON. I will accept that both for the heading and for the ticket.

The CHAIRMAN. The question is upon the amendment to the amendment.

The amendment to the amendment was rejected.

The CHAIRMAN. The question recurs upon the amendment of the gentleman from Allegheny to add after the word "Constitution" the words,

"And for all persons giving negative votes:

'NEW CONSTITUTION.

'Against the new Constitution.'"

Mr. BUCKALEW. The intention of the Committee on Suffrage, Election and Representation was in this section to provide for an affirmative vote and nothing else; then in another part of the ordinance to provide that these tickets shall be printed. The next section which we have not yet reached provides how tickets shall be counted and gives permission to print a negative ballot. We wanted the two ideas kept separate.

The CHAIRMAN. The question is upon the amendment.

Mr. HAY. I withdraw the amendment for the present.

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

The section as amended was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

"VI. Each of the said ballots shall be counted as a vote cast for that portion of the new Constitution not separately submitted, and for each separate proposition thereon not struck out with ink or pencil, and against each separate proposition so struck out. Persons voting against the new Constitution, or any part thereof separately submitted, may use a ballot with the same heading and general form, in which the word "against" shall be substituted for the word "for," in such place or places upon the ballot as the voter may choose, and the said ballot shall be counted "for" or "against" that portion of the amended Constitution not separately submitted, or for or against the proposition separately submitted, as the ballots may indicate respectively."

Mr. BUCKALEW. I offer the following substitute:

"Each of the said ballots shall be counted as a vote cast for the new Constitution. Persons voting against the new Constitution may use a ballot with the same heading and general form, in which the word 'against' shall be substituted for the word 'for,' which ballots shall be counted as votes against the new Constitution."

Mr. J. W. F. WHITE. I think it is unfair that the State shall furnish tickets for the new Constitution, and furnish three times as many ballots for the Constitution as there are voters in each district, and yet give no tickets to those citizens who want to vote against it, and that is the section now before us. I submit that it is unfair that we should furnish ballots only on one side. We all know that throughout the great majority of districts the mass of the voters go to the polls without having any ballots prepared beforehand. They expect some person at the polls to furnish the ballots. If we make no provision for furnishing ballots for those who want to vote against the Constitution, I submit we shall be acting unfairly to the voters of the State. A citizen of the State who may not think that we are the greatest men who ever lived on the face of the earth, or that this is the best Constitution that ever was framed since the first Constitution, has just as much right to vote against the Constitution as any other one has to vote for it; and we, if we wish to be fair to the voters of the State, should place them all upon an equality, and especially should

we do that when it will not cost the State one cent more. These ballots can be prepared that all the citizens of the State, whether they desire to vote for or against our work, shall be furnished with tickets without costing the State one cent more, and why should we not do it? The amendment proposed to the previous section by my colleague from Allegheny, and several other amendments proposed, would have accomplished that. These two sections are very adroitly worded. The previous part of this ordinance provides that the Secretary of the Commonwealth shall furnish ballots, have them printed and sent to the county commissioners, who are to have them sent to the polls, and all these printed ballots are to be for the new Constitution. Then we designedly and most graciously say that anybody who will not endorse our work, and wants to vote against it, shall have the privilege to print his own ballot and voting it. For one, as a member of the Convention, I enter my solemn protest against that.

Mr. BEBBE. I entirely agree with the views of the gentleman from Allegheny (Mr. J. W. F. White) on this question, and I aver of it that anything in our work that looks like an attempt to thrust this Constitution on the people will provoke their opposition.

Mr. H. G. SMITH. It seems to me that if we furnish tickets with the words "for the Constitution," anybody who wishes to vote against it can strike out the word "for" and insert "against." It will give a man very little trouble to do that. It seems to me that any man who desires to vote against the Constitution when he goes to the polls can easily pass his pencil over the word "for" and write the word "against." I do not see why we should go further than that. We provide a perfect method of reaching the popular will.

Mr. FELL. Suppose we furnished tickets "against the Constitution," then the voters could strike out "against" and insert "for." How would that do?

Mr. H. G. SMITH. There would be no great reason for objecting even to that. I do not see that there is any trouble about this matter; it is not gagging the people in any manner.

Mr. KNIGHT. Mr. Chairman: I think there should be two distinct tickets, one "for the Constitution" and another

"against the Constitution," and let the people take their choice.

Mr. ELLIS. Mr. Chairman: I think that this whole matter might be arranged by having the outside of the ticket settled upon, and the inside of the ticket with simply the word "Constitution," and then let anybody who wishes to vote for it write the word "for" before "Constitution," and any one who wishes to vote against it write the word "against;" and the man who cannot write "for" or "against" ought not to be allowed to vote upon the question. Leave that question a blank, let it not be prejudged in any respect; leave the "for" or "against" blank in the ticket, and let the voter write how he means to vote before the word "Constitution."

Mr. LANDIS. I submit that then there would be more blank tickets voted, without either "for" or "against," than anything else.

Mr. ARMSTRONG. We have a great deal of confidence in our work, and believe that we have made a good Constitution. We submit it to the discrimination of the people. Submitting it to their judgment, we cannot assume that all the citizens of this State will vote for the Constitution; but those who vote against it must pay part of the printing bill and every expense that attends this Constitution, and I believe they would justly complain that the Convention is attempting by indirection to force them to vote for the Constitution, by making it inconvenient to vote against it. I think we had a great deal better meet this question fairly, and when the State undertakes to furnish tickets for the people, let us assume that the people who pay for them shall have the ticket in a form in which they can judge of their vote without any attempt to make it inconvenient to vote either way. I am willing to trust the judgment and discrimination of the people in this respect. Let us make it convenient for those who wish to vote against it, and there shall be taken out of their mouths any argument that is founded on any apparent unfairness. I think it is better judgment that we should print tickets on both sides, so that it shall not lie in the mouth of any one to say that we have attempted in the least degree to force this Constitution on the people. Let it stand on its merits; the more it is understood the better it will be approved.

Mr. BUCKALEW. I desire to explain what the committee did in this matter. There is no necessity for any difficulty on this point. The committee reported substantially the Illinois form of ticket, which was an affirmative form for the new Constitution, or the separate article on the Judiciary, or the separate article on Railroads. They then provided that any voter who desired to vote against either of these propositions might erase the word "for," with pen or pencil, and that was all the ticket that would be printed, as in the case of the Illinois example. But to be very careful about it we desired that anybody who wanted to do so might use a ticket printed "against the Constitution," if he choose to provide himself with such a ticket.

That was what the committee reported. Now by changes here we have this question raised. The Convention have struck out all about separate submission. The form of the ticket now will be simply "For the new Constitution" or "Against the new Constitution." I am opposed to printing indiscriminately tickets "for" and "against" to the same amount, to be used and misused by people into whose hands they go. A great many voters will be cheated with these tickets that are printed by the State. I do not understand that we are called upon to print negative tickets, but I have no objection to applying the Illinois principle to the single proposition, to print the tickets "For the new Constitution," and permit the voter to erase the word "for" or to write the word "against" on the same ticket. I protest against the philosophy of our being obliged to print tickets against and circulate them along with affirmative votes. The voter has an opportunity to vote against under the proposition as reported.

Mr. CARTER. I concur with the gentleman from Lycoming, in his general view in regard to this matter. I think the moral effect of our refusing to give, as we do to some extent, the people a fair chance to express their opinions, will be to operate injuriously against our work. We have members of this Convention, men who have shared our labors from the first to the last, who may desire to vote against this work, and certainly it seems to me we should give the people, for whom we profess to have made a Constitution, a fair opportunity to express their opinion

upon our work, and we should submit it to the test of popular scrutiny, to the decision of the popular vote, and abide by it, and let us not interpose obstacles to that fair expression of the popular wish.

While I concede, with the gentleman from Columbia, that there may be some danger in this, and that it may be abused, that men may use tickets marked "against," and deceive others in regard to it, yet I do not like to shock my sense of right and justice by voting against a proposition to furnish tickets, both "for" and "against." I trust to the good sense of the people to consider our work as a good one and adopt it. I do not like that restraint, and I repeat that the moral effect of it will be bad against our own work. The people will say, "these men would not give us a fair chance; they forestalled so far as they could do, the wishes of the people, and interposed a difficulty to a fair expression of public sentiment." I am for fair play first and last and all the time.

Mr. STRUTHERS. Mr. Chairman: It appears to me the better way would be to provide here the form of the ballot, and leave it to the friends of the Constitution, on the one hand, and to those opposed to it, on the other hand, to get their own tickets printed. I will guarantee you that there will be plenty of gentlemen in all the counties who will be active enough and take interest enough in it to procure the printing and circulation of printed tickets for the Constitution; and in other counties and places, and indeed in my own county, I am satisfied there will be a great many, if we are to vote for it in this form altogether, who will take enough interest in the matter to get tickets printed and circulate them in opposition to the Constitution. Then you will have persons interested on the one hand and interested on the other hand, who will see that the tickets are properly distributed and properly handled.

Mr. H. W. PALMER. This proposition is merely to fix the form of the ticket. There is nothing in it that provides that the Secretary of the Commonwealth shall furnish tickets "For the Constitution" or "Against the Constitution," and there is nothing in the third section which we adopted on that subject that says anything about the kind of tickets he shall furnish. Now, the only question for the Convention is what shall be the form of the ticket, and all this discussion about

how many shall be furnished and what kind of tickets shall be furnished is not at all appropriate. The only question here is what shall be the form of the ticket, and when you take the vote on that you can settle the other question. There is nothing in the third section that says the Secretary of the Commonwealth shall furnish any particular kind of tickets: "The Secretary of the Commonwealth shall, at least twenty days before the said election, furnish to the county commissioners of each county properly prepared printed ballots for said election," and "the said ballots shall be accompanied by a printed circular," &c. He can send out ballots against it as well as for it if he chooses to do so, for all that section does.

Mr. CLARK. I propose to offer an amendment. In the third line, after the word "Constitution," I propose to insert the words, "may strike out the words, For the new Constitution, on the ballot with ink or pencil, or." The section will then read:

"Each of the said ballots shall be counted as a vote for the new Constitution. Persons voting against the new Constitution may strike out the words, 'For the new Constitution' on the ballot with ink or pencil, or may use a ballot with the same heading and general form, in which the word 'against' shall be substituted for the word 'for,' which ballot shall be counted as against the new Constitution."

This enables the same ticket to be used by both parties.

Mr. TURRELL. If we undertake to furnish tickets to the voters of this State, either for or against this Constitution, why should there be any form that requires striking out or writing in? Why should we not take the simplest form? Every voter has an equal right, if he has a ticket furnished to him at all, to have it furnished in the simplest possible form, so that he may vote directly according to his convictions. Why should we attempt to forestall or say to the voter, "Here is a vote for you to vote if you are for the Constitution; if you are against it, you shall write it yourself, or you shall strike out or insert." There is no necessity for this. The fairness of this proposition to print a ticket in the simplest form separately "For the Constitution" or "Against the Constitution," is so manifest, that I am surprised that there should be any

question or controversy about it. As was justly said by the gentleman from Allegheny and the gentleman from Lycoming, these tickets are printed by the Secretary of the Commonwealth under our direction and at the expense of the State, and every voter in it has an equal right to have the ticket furnished in such form that he may vote directly without any hindrance, without any writing in or striking out; and why should he not? Can any man give a good reason to the contrary? Why burden it with any limitations or restrictions or forms? Let it be printed just in the simplest possible form, "For the new Constitution" or "Against the new Constitution," and the voter comes to the polls and he sees both before him, and let him take his choice and vote squarely and independently.

Mr. NILES. Mr. Chairman: There is very much truth in what has just been said by the delegate from Susquehanna. I take it that while we may be very much impressed with our labors, our constituents may not be. We ought also to consider that there are two sides to this question, and that the expenses of this Convention and the printing of tickets will be borne by the tax-payers representing sentiments in favor of and against this Constitution; and if it be in order at this time, I have an amendment, which I propose to submit, to the proposition of the delegate from Columbia. I will indicate what my amendment is. The amendment submitted by the delegate from Indiana (Mr. Clark) goes just half way. I think the voter who desires to record his vote against this instrument is entitled to a fair show, and if his amendment is rejected I propose to offer this as a substitute for the pending section.

"The tickets furnished by the Secretary of the Commonwealth shall be of equal quantity for and against the new Constitution."

Mr. ARMSTRONG. Now if the gentleman will allow me to read, merely for information, the amendment which I wish to propose, it is this:

"For all persons giving affirmative votes, on the outside of the ticket there shall be the words 'New Constitution,' and on the inside the words 'For the new Constitution;' and for all persons giving negative votes there shall be on the outside of the ticket the words 'New Constitution,' and on the inside the words 'Against the new Constitution.'"

Mr. WHEBBY. I think an easy solution for this problem might be found by unanimous consent. Let us agree to vote down the sixth section, and then make a motion to reconsider the fifth, and accept the amendments. I hope that course will be pursued.

Mr. LITTLETON. Whilst this amendment is before the House, I wish to say that in my opinion there is no necessity for an endorsement of the ticket. We should have the tickets so that everybody who voted would be compelled to read them, and not simply throw in a ballot without taking the trouble to look whether it says "for" or "against" inside of it. At this election we are to vote upon nothing but the Constitution. It is not as in a case where we elect Congressmen, State officers and county officers, where a man must examine different tickets to see that he is voting for all those different officers; but we should simply print a ticket "For the Constitution," and a ticket "Against the Constitution," and have no endorsement at all upon it. Then a man would necessarily be compelled to read what he votes.

Mr. CURTIN. By what authority do we direct the Secretary of the Commonwealth to furnish tickets at all, and how will these tickets be paid for? The Secretary of the Commonwealth has no power to pay for our tickets unless he is directed to do so by law, and we are not here to make laws regulating the payment of money from the Treasury of the State. And even if we had the power, suppose it should not be the pleasure of the Secretary of the Commonwealth to obey our resolution, and he would not furnish tickets? My impression is that we had better vote it all out and furnish tickets ourselves through our Executive Committee.

Mr. KAINE. I agree with the views just expressed by the distinguished gentleman from Centre. According to my remembrance of all the amendments to the Constitution which have been adopted by the people, the tickets for voting for and against have been furnished by the counties. Sometimes they have hardly done that, but generally the county commissioners have furnished the tickets to vote in favor of amendments. I remember very well that such was the case in regard to the adoption of the amendments of 1837-8. I also remember very well that when the people of this State

upon our work, and we should submit it to the test of popular scrutiny, to the decision of the popular vote, and abide by it, and let us not interpose obstacles to that fair expression of the popular wish.

While I concede, with the gentleman from Columbia, that there may be some danger in this, and that it may be abused, that men may use tickets marked "against," and deceive others in regard to it, yet I do not like to shock my sense of right and justice by voting against a proposition to furnish tickets, both "for" and "against." I trust to the good sense of the people to consider our work as a good one and adopt it. I do not like that restraint, and I repeat that the moral effect of it will be bad against our own work. The people will say, "these men would not give us a fair chance; they forestalled so far as they could do, the wishes of the people, and interposed a difficulty to a fair expression of public sentiment." I am for fair play first and last and all the time.

Mr. STRUTHERS. Mr. Chairman: It appears to me the better way would be to provide here the form of the ballot, and leave it to the friends of the Constitution, on the one hand, and to those opposed to it, on the other hand, to get their own tickets printed. I will guarantee you that there will be plenty of gentlemen in all the counties who will be active enough and take interest enough in it to procure the printing and circulation of printed tickets for the Constitution; and in other counties and places, and indeed in my own county, I am satisfied there will be a great many, if we are to vote for it in this form altogether, who will take enough interest in the matter to get tickets printed and circulate them in opposition to the Constitution. Then you will have persons interested on the one hand and interested on the other hand, who will see that the tickets are properly distributed and properly handled.

Mr. H. W. PALMER. This proposition is merely to fix the form of the ticket. There is nothing in it that provides that the Secretary of the Commonwealth shall furnish tickets "For the Constitution" or "Against the Constitution," and there is nothing in the third section which we adopted on that subject that says anything about the kind of tickets he shall furnish. Now, the only question for the Convention is what shall be the form of the ticket, and all this discussion about

how many shall be furnished and what kind of tickets shall be furnished is not at all appropriate. The only question here is what shall be the form of the ticket, and when you take the vote on that you can settle the other question. There is nothing in the third section that says the Secretary of the Commonwealth shall furnish any particular kind of tickets: "The Secretary of the Commonwealth shall, at least twenty days before the said election, furnish to the county commissioners of each county properly prepared printed ballots for said election," and "the said ballots shall be accompanied by a printed circular," &c. He can send out ballots against it as well as for it if he chooses to do so, for all that section does.

Mr. CLARK. I propose to offer an amendment. In the third line, after the word "Constitution," I propose to insert the words, "may strike out the words. For the new Constitution, on the ballot with ink or pencil, or." The section will then read:

"Each of the said ballots shall be counted as a vote for the new Constitution. Persons voting against the new Constitution may strike out the words, 'For the new Constitution' on the ballot with ink or pencil, or may use a ballot with the same heading and general form, in which the word 'against' shall be substituted for the word 'for,' which ballot shall be counted as against the new Constitution."

This enables the same ticket to be used by both parties.

Mr. TURRELL. If we undertake to furnish tickets to the voters of this State, either for or against this Constitution, why should there be any form that requires striking out or writing in? Why should we not take the simplest form? Every voter has an equal right, if he has a ticket furnished to him at all, to have it furnished in the simplest possible form, so that he may vote directly according to his convictions. Why should we attempt to forestall or say to the voter, "Here is a vote for you to vote if you are for the Constitution; if you are against it, you shall write it yourself, or you shall strike out or insert." There is no necessity for this. The fairness of this proposition to print a ticket in the simplest form separately "For the Constitution" or "Against the Constitution," is so manifest, that I am surprised that there should be any

question or controversy about it. As was justly said by the gentleman from Allegheny and the gentleman from Lycoming, these tickets are printed by the Secretary of the Commonwealth under our direction and at the expense of the State, and every voter in it has an equal right to have the ticket furnished in such form that he may vote directly without any hindrance, without any writing in or striking out; and why should he not? Can any man give a good reason to the contrary? Why burden it with any limitations or restrictions or forms? Let it be printed just in the simplest possible form, "For the new Constitution" or "Against the new Constitution," and the voter comes to the polls and he sees both before him, and let him take his choice and vote squarely and independently.

Mr. NILES. Mr. Chairman: There is very much truth in what has just been said by the delegate from Susquehanna. I take it that while we may be very much impressed with our labors, our constituents may not be. We ought also to consider that there are two sides to this question, and that the expenses of this Convention and the printing of tickets will be borne by the tax-payers representing sentiments in favor of and against this Constitution; and if it be in order at this time, I have an amendment, which I propose to submit, to the proposition of the delegate from Columbia. I will indicate what my amendment is. The amendment submitted by the delegate from Indiana (Mr. Clark) goes just half way. I think the voter who desires to record his vote against this instrument is entitled to a fair show, and if his amendment is rejected I propose to offer this as a substitute for the pending section.

"The tickets furnished by the Secretary of the Commonwealth shall be of equal quantity for and against the new Constitution."

Mr. ARMSTRONG. Now if the gentleman will allow me to read, merely for information, the amendment which I wish to propose, it is this:

"For all persons giving affirmative votes, on the outside of the ticket there shall be the words 'New Constitution,' and on the inside the words 'For the new Constitution;' and for all persons giving negative votes there shall be on the outside of the ticket the words 'New Constitution,' and on the inside the words 'Against the new Constitution.'"

Mr. WERRY. I think an easy solution for this problem might be found by unanimous consent. Let us agree to vote down the sixth section, and then make a motion to reconsider the fifth, and accept the amendments. I hope that course will be pursued.

Mr. LITTLETON. Whilst this amendment is before the House, I wish to say that in my opinion there is no necessity for an endorsement of the ticket. We should have the tickets so that everybody who voted would be compelled to read them, and not simply throw in a ballot without taking the trouble to look whether it says "for" or "against" inside of it. At this election we are to vote upon nothing but the Constitution. It is not as in a case where we elect Congressmen, State officers and county officers, where a man must examine different tickets to see that he is voting for all those different officers; but we should simply print a ticket "For the Constitution," and a ticket "Against the Constitution," and have no endorsement at all upon it. Then a man would necessarily be compelled to read what he votes.

Mr. CURTIN. By what authority do we direct the Secretary of the Commonwealth to furnish tickets at all, and how will these tickets be paid for? The Secretary of the Commonwealth has no power to pay for our tickets unless he is directed to do so by law, and we are not here to make laws regulating the payment of money from the Treasury of the State. And even if we had the power, suppose it should not be the pleasure of the Secretary of the Commonwealth to obey our resolution, and he would not furnish tickets? My impression is that we had better vote it all out and furnish tickets ourselves through our Executive Committee.

Mr. KANE. I agree with the views just expressed by the distinguished gentleman from Centre. According to my remembrance of all the amendments to the Constitution which have been adopted by the people, the tickets for voting for and against have been furnished by the counties. Sometimes they have hardly done that, but generally the county commissioners have furnished the tickets to vote in favor of amendments. I remember very well that such was the case in regard to the adoption of the amendments of 1837-8. I also remember very well that when the people of this State

voted on the amendment of 1850 to the article in the present Constitution on the Judiciary, there were no tickets in the county in which I resided furnished by the county to vote against it. I was opposed to the adoption of that amendment; I was then opposed to an elective judiciary and in favor of the Constitution as it was framed in 1837-8, and I myself, at my own expense, had the tickets in my county printed to vote against the amendment, and we came pretty near defeating it. I think this whole thing had better be left to the respective counties to furnish the tickets themselves.

Mr. CORSON. Mr. Chairman: I hope all these propositions will be voted down, and then I shall propose this section, if I can get the attention of delegates:

"The new Constitution shall be adopted or rejected by a *viva voce* vote, and each vote shall be recorded 'For the Constitution' or 'Against the Constitution,' as altered by the elector."

That is the old Roman way, and I believe that if the people can go to the polls, walk up to the window and say "I vote for the new Constitution," or "I vote against the new Constitution," they will be better satisfied than if we saddle them with an expense of \$20,000 to print these tickets. Then we shall have to print tickets for the Constitution and tickets against the Constitution, and then they will be liable to the manipulation of the men who stand around the polls. Men who cannot read, by reason of old age or other infirmity, or perhaps ignorance, may be deceived; but no man can be deceived by any outsider, if he has the right to go up to the polls and say "I vote for Cato to be consul." That is the law which no man can deceive you by.

Mr. Chairman, we are approaching the close of our work, and I believe that in the end we shall all be of one mind. Without any waste of words I appeal to all my fellow-members to prepare this hour for earnest, serious and assiduous labor if they mean to accomplish a successful mission. Remember that the Constitution under which we have lived since 1838 was only adopted by our people by a majority of about 1,200 in a total poll of 225,000 votes. We have made fewer radical changes than our fathers did. We have preserved all that was good in their work. We have tightened the bands of constitutional law to embrace all the vast industrial interests which have grown up

during the last forty years. We have endeavored to extirpate the vices which have flourished like pernicious weeds in the political garden. We have set guards around and against the marauders and despoilers of the people's household. We have elevated the great charter to the level of that more perfect freedom which is the result of nearly a century's growth of republicanism in this country. We have made a Constitution which embraces within its provisions all the good law which we could glean from the constitutions of the several States of this American Union.

Now, sir, at this, the closing hour of the session, let us resolve to submit this instrument once for all to the people of Pennsylvania to vote honestly and fairly upon it, and let every man come to the polls and speak his mind, and I guarantee that there will be such a majority for this Constitution as will make the whole Union ring, and they will turn to Pennsylvania forever more for inspiration.

Mr. HANNA. Mr. Chairman: I was very glad to hear the remarks of the distinguished gentleman from Centre (Mr. Curtin) for he has turned the current of our thoughts. Let us look at the act of Assembly, by which, I maintain, we are bound in all our action. I begin to think that the distinguished gentleman now is of opinion that this act of Assembly is of some worth. He has brought us to think of the practical matters connected with the submission of the Constitution. We find by the act of Assembly that we have the power to determine the manner in which this Constitution shall be submitted to the people. That I believe regards simply the mode of its submission, whether as a whole or in sections, as one-third of the members of the Convention are permitted to decide in regard to any separate section.

Again, the distinguished delegate from Centre has asked us by what authority we determine that the tickets shall be provided. I think that is a pertinent question. I call the attention of the Convention to the sixth section of the act of Assembly, which says distinctly, that the election to decide for or against the adoption of the new Constitution "shall be conducted as the general elections of this Commonwealth are now by law conducted." That is the mode prescribed by the Legislature for holding the election on the adoption of the Constitution. Now,

what is the mode of holding the general elections? Does the Secretary of the Commonwealth provide the tickets? Does he provide the ballots? Not at all. The county commissioners provide all the means; they regulate the machinery; and we, ourselves by this very ordinance say that these officials shall conduct the election in the several counties; and I maintain that they are the proper officers to provide for, regulate and distribute the ballots for or against the Constitution. We all know that that is the general manner of conducting an election, and that is the way, I maintain, that the expense also is to be provided. In the city of Philadelphia our city commissioners have sole charge under the general election law of carrying on our State, city, and all other elections. So under this act of Assembly the city commissioners will have sole charge of this matter. I doubt, since the gentleman from Centre has called our attention to the fact, whether we have any power whatever over the subject. Under the act of Assembly it is committed by the Legislature, and by our own acts in the Constitution that we have adopted, entirely to the county commissioners of the several counties, and it is a matter worthy of our careful consideration before we decide upon this question.

Mr. HAY. It seems to me that there is a very easy way out of all this difficulty, the way that has been suggested by several of the gentlemen who have occupied the attention of the Convention, and that is to print no tickets at all. Why should we undertake this expense? Let us provide the form of the ballot, and then let the printing be done by those interested. Those who want to vote for the instrument, will of course provide their ballots to do so. Subscriptions can be taken up, as is usual in such cases, to defray the expenses of printing, and ballots provided for the people. Those who are disposed to vote against this instrument will take good care to provide ballots for that purpose. If we simply provide the form of ballot, and leave the question of printing alone, there need be no difficulty whatever. All these amendments should be voted down, and the section also, and then an amendment added to section five, providing the form of ballot against the new Constitution, as well as for it.

Mr. HARRY WHITE. Mr. Chairman: Being largely in the minority as to the kind of ticket that is going to be voted,

I felt inclined to accept the situation for a while until we got through committee of the whole. I heard, with some pleasure, the remark as we approached the close of our session, we were going to have great unanimity. I will merely say that so far as I can observe we shall never have unanimity as long as we adhere to the present plan of voting. Be that as it may, if we do make an agreement on this subject, I think we should come to a wise one, and I entirely concur, with one or two exceptions, in the proposition submitted by the committee that reported this ordinance in regard to furnishing tickets.

I listened with some surprise to the observations of the distinguished gentleman from Centre, (Mr. Curtin,) in which he seemed to suppose that the Secretary of the Commonwealth would not regard this provision of the ordinance. I apprehend that the Secretary of the Commonwealth will not refuse to respect the expression of sentiment, if you may call it such, for it has no other effect, coming from so large and respectable a body as this. It is respectable, because we have all said so from time to time. I have no doubt whatever that the Secretary of the Commonwealth will observe the regulations we make in this regard, and hence the propriety of our being extremely careful.

The gentleman from Allegheny (Mr. Hay) says it is not necessary to go to any trouble about furnishing tickets. I feel inclined to criticize severely that remark. I think it is necessary for us to make some provision on this subject, and I think it is wise and will be appreciated by the different counties of this Commonwealth, that the expense of the election, so far as regards furnishing tally-papers and tickets, shall be defrayed by the Commonwealth. I think that is all well enough, and all that is necessary to provide for is the kind of ticket. I entirely concur with the observation that has been made by some gentlemen here, that we ought to give both sides, those for and against this Constitution, for there are those who are against it, an opportunity to express themselves. I like the amendment offered by my colleague from Indiana (Mr. Clark.) I believe that is the practical question before the Convention. It seems to me that that would meet the question—allow the ticket to be formed by writing the word "for" or "against" or

striking out "for" or "against;" I do not recall how it was, but as it was read, it struck me favorably. I shall vote for that. I like also the proposition submitted by the delegate from Lycoming (Mr. Armstrong,) to furnish tickets with the words "For the new Constitution" and "Against the new Constitution." I do not care which of those propositions is adopted, I shall vote for either of them; but I trust and hope that we shall adhere to the section so far as it requires the Secretary of the Commonwealth to supply the tickets to the voters of the State.

Mr. CURTIN. I merely desire to make a personal explanation. I presented to the Convention a proposition, and to illustrate my position I said, "suppose the Secretary of the Commonwealth should refuse to obey this body." Now, I do most earnestly protest against the gentleman from Indiana torturing my remark into anything invidious to the present Secretary of State. I know him as well as the gentleman from Indiana does, and I know he will not disobey it.

Mr. COCHRAN. I simply desire to call the attention of the committee to the fact that we are losing a great deal of time. I hope this question will be compromised and settled at once by coming to an agreement that there shall be two sets of ballots furnished by the Secretary of the Commonwealth, one set "for" and the other "against the Constitution," and let them be supplied in proper proportions to the people of the counties. Let us get at this matter by reconsidering the fifth section; settle it on that basis, and then go ahead and save a great deal of time. I hope that course will be adopted.

Mr. HALL. The whole purpose and extent of this section as reported by the committee was simply to fix the form of the ballots to be cast at the election. Now, let us adhere to that simple proposition. Let us pass the section fixing the form of the ballot both "for" and "against" the Constitution. Who shall furnish the ballots, if they are to be furnished, and of what character the furnished ballots shall be, must be fixed in the third section, which refers to that subject. We can discuss that when we reach that section again on second reading. Let us pass this section now; vote down all amendments; fix simply the form of the ballots, and leave the other question to be considered in its proper place.

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

Mr. ARMSTRONG. If the committee will indulge me for one moment, I will read a proposition that I have prepared. I shall not move it now, but will endeavor to put it in better shape by the time we come to second reading, and I want the Convention to think about it. With the permission of the Convention I will state that the idea is that the Secretary of the Commonwealth shall furnish all blanks that are necessary, and letters of instruction, and distribute them to the counties, but that the ballots themselves shall be printed within the county and under the direction of the commissioners. If we undertake to allow packages of tickets to be passed from Harrisburg into the hands of the county commissioners, there is no telling how many, if not all of them, will be suppressed. In addition to that, if we allow the printing to be done within the several counties, we enlist the interest of the several editors who may thus be brought into more active and immediate association with the work. With this view I have drawn up these sections, which, at the proper time, I shall put into more appropriate form and submit:

"The Secretary of the Commonwealth shall, at least twenty days before said election, furnish to the county commissioners of each county, properly prepared, a sufficient quantity of printed blanks of all necessary tally-lists and returns and printed circulars of instructions.

"The county commissioners of the several counties shall cause to be prepared printed ballots to the number of three times the number of voters in each county; and the said commissioners shall, at least five days before said election, cause to be distributed to the several election boards in each election district in their several counties, the ballots, blanks, tally-lists, returns and letters of instruction.

"The ballots shall be in the following form: For all persons giving affirmative votes there shall be printed on the outside of the ticket the words 'new Constitution' and in the inside the words 'For the new Constitution;' and for all persons giving negative votes, there shall be on the outside of the ticket the words 'New Constitution' and in the inside the words 'Against the new Constitution.'"¹²

The CHAIRMAN. The question is on the amendment of the gentleman from Columbia offered as a substitute.

The amendment was rejected.

The CHAIRMAN. The question now is on the amendment of the gentleman from Indiana (Mr. Clark.)

Mr. CLARK. I withdraw it.

The CHAIRMAN. The question then is on the section.

Mr. HALL. I move to reconsider the vote on the amendment of the gentleman from Columbia. I did not understand it.

Mr. BUCKALEW. There was obviously an error in taking the vote. I offered a substitute for the section simply as a question of form. Then there was an amendment again offered, and now I am told that my amendment was voted on first.

The CHAIRMAN. The Chair will state to the gentleman from Columbia that the amendment of the gentleman from Indiana was not an amendment to the substitute and therefore was not first in order, and it was subsequently withdrawn. The Chair put the question to the committee on the substitute of the gentleman from Columbia. The Chair will now withdraw the decision, as it is said there was a misunderstanding, and put the question again on that amendment. The Clerk will read the substitute of the gentleman from Columbia.

The CLERK. The amendment is to strike out the section and insert;

"Each of the said ballots shall be counted as a vote cast for the new Constitution. Persons voting against the new Constitution may use a ballot with the same heading and general form in which the word "Against" shall be substituted for the word "For," which ballots shall be counted as votes against the new Constitution.

Mr. BUCKALEW. That is simply the Illinois form; and if this substitution be made the sixth section can be put in any other shape as desired on second reading.

The CHAIRMAN. The question is on the substitute of the gentleman from Columbia just read.

The amendment was agreed to.

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

The section as amended was agreed to.

The CLERK read the next section as follows:

"VII. If it shall appear that a majority of the votes polled are for the new Constitution, then so much of the same as was not separately submitted shall be the Constitution of the Commonwealth of Pennsylvania on and after the first day of January, in the year of our Lord one thousand eight hundred and seventy-four; but if it shall appear that a majority of the votes polled were against the new Constitution, then so much thereof as was not separately submitted shall be rejected and be null and void; if it shall appear that a majority of the votes polled are for the several propositions separately submitted, or for any of them, then the several articles, sections, or parts of sections embraced in such propositions separately submitted, or such of them as shall receive a majority of the votes polled as aforesaid, shall be a part of the Constitution of the Commonwealth.

In the event of the rejection of the article upon the Judiciary, embraced in separate proposition number one, then the fifth article of the present Constitution, entitled "Of the Judiciary," shall remain in full force and be substituted therefor.

In the event of the rejection of separate proposition number two, then the article entitled "Railroads and Canals" shall be struck out and be null and void."

Mr. D. N. WHITE. I offer the following substitute:

"If it shall appear that a majority of the votes polled are for the new Constitution, then it shall be the Constitution of the Commonwealth of Pennsylvania on and after the first day of January, in the year of our Lord, one thousand eight hundred and seventy-four; but if it shall appear that a majority of the votes polled were against the new Constitution, then it shall be rejected and be null and void."

Mr. WHERRY. This whole matter is so specifically provided for in the sixth section of the act of Assembly that there can be no necessity whatever for the adoption of the section or the substitute.

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

The amendment was agreed to.

Mr. HARRY WHITE. The Convention a moment ago—I do not think delegates knew what they were voting—adopted a proposition offered by the delegate from Columbia which requires only one set of

tickets to be furnished the voters. ["No." "No."]

The CHAIRMAN. That question is not now before the committee. The question is on the seventh section as amended on the motion of the delegate from Allegheny.

SEVERAL DELEGATES. Let it be read.

The CLERK read as follows:

"VII. If it shall appear that a majority of the votes polled are for the new Constitution, then it shall be the Constitution of the Commonwealth of Pennsylvania on and after the first day of January, in the year of our Lord one thousand eight hundred and seventy-four; but if it shall appear that a majority of the votes polled are against the new Constitution, then it shall be rejected and be null and void."

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

The section as amended was agreed to.

The CLERK read the next section, as follows:

"VIII. Five commissioners of election shall be appointed by vote of this Convention, who shall have direction of the election upon this amended Constitution in the city of Philadelphia. The said commissioners shall be persons of good repute and qualified electors of said city, and shall be duly sworn or affirmed to perform their duties with impartiality and fidelity.

"It shall be the duty of said commissioners, or a majority of them, and they shall have authority to revise the registration of voters for the several wards or election divisions of said city, to correct the same, and to furnish the said corrected lists to the election officers of each precinct or division thereof; to distribute the tickets for said city provided for by this ordinance to be used at the election; to appoint a judge and two inspectors for each election division, by whom the election therein shall be held and conducted, and to give all necessary instructions to the election officers regarding their duties in holding the election and in making returns thereof.

"The general return of the election in the said city shall be opened, computed and certified before them, and with their approval—which approval shall be endorsed upon the return. They shall make report, directed to the President of this Convention, of their official action under this ordinance, and concerning the

fairness of the said election within the said city.

"The judges and inspectors aforesaid shall conduct the election in all respects conformably to the general election laws of this Commonwealth, and with like powers and duties to those of ordinary election officers. Each inspector shall appoint one clerk to assist the board in the performance of its duties, and all the election officers shall be duly sworn or affirmed according to law, and shall possess all the qualifications required by law of election officers in this Commonwealth. At said election any duly qualified elector who shall be unregistered, shall be permitted to vote upon making proof of his right to the election officers, according to the general election laws of this Commonwealth. Return inspectors and their clerks shall be dispensed with, but overseers of election may be selected for any precinct by said election commissioners, or appointed therefor by the court of common pleas of said city, whose duties and powers shall be the same as those of overseers of election in said city, under existing election laws applicable thereto.

"Returns of the election shall be made in said city as in the case of an election for Governor, but a triplicate general return for said city shall be made out and forwarded to the president of the Convention, at Harrisburg, as is hereinafter provided in case of county returns."

Mr. WOODWARD. The gentleman from Philadelphia (Mr. Carey) was instructed to report to the Convention the result of the deliberations of the delegates from the city.

Mr. CAREY. Mr. Chairman: The delegation from Philadelphia, by a unanimous vote, have instructed me to report certain names as the proposed commission.

The CHAIRMAN. The gentleman from Philadelphia moves to insert in the eighth section the names of the commissioners.

Mr. WOODWARD. They will come in after the words "five commissioners of election" in the first line.

The CHAIRMAN. The names will be read.

The CLERK. The section will read, with the names, as follows:

"Five commissioners of election, viz: Edwin H. Fidler, Edward Browning, John P. Verree, Henry S. Hagert and John O. James, are hereby appointed by this Convention, who shall have direction of the election," &c.

Mr. J. W. F. WHITE. I desire to say something on the section. I presume the names will be inserted by common consent.

The CHAIRMAN. If there be no objection the amendment will be inserted by unanimous consent. ["Aye." "Aye." "No."] The question is on the amendment to insert these names.

The amendment was agreed to.

Mr. DALLAS. I offer a substitute for the section. The names of the commissioners I have inserted. Where I have stricken out a line the Clerk will be kind enough to indicate the names.

The Clerk read the amendment as follows:

Strike out the section and insert in lieu thereof: "There shall be five commissioners of election for the city of Philadelphia, viz: Edwin H. Fidler, Edward Browning, John P. Verree, Henry S. Hugart and John O. James. Said commissioners shall be sworn or affirmed to perform their duties with impartiality and fidelity.

The duties and powers of said commissioners shall be as follows:

1. They shall distribute the tickets for said city provided by this ordinance.

2. They shall appoint a judge, two inspectors and two return inspectors for each election division, by whom the election therein shall be held and conducted; and they shall also appoint two clerks to assist said election officers in the performance of their duties.

3. Upon the requirement of any two of said commissioners, an overseer of election shall be appointed by them for any election division or divisions.

4. Said commissioners shall give all necessary instructions to the election officers, clerks and overseers, and shall furnish them with copies of the last registry of votes for their respective divisions, and with all necessary books, papers and other articles for use in the performance of their duties.

5. Said election commissioners shall have power to fill vacancies in their own body, and to make new appointments to fill the place of any election officer, clerk or overseer, which from any cause, may become vacant, and to revoke any appointment made by said commissioners; but, in filling vacancies in their own body, or in any place that may become vacant amongst the election officers, clerks or overseers, the new appointees

shall, in every case, be chosen from the same political party as that of the person whose place is to be filled.

The judge, one inspector, one return inspector, and one clerk, shall in all cases be selected from the political party which polled the majority of legal votes in the election division for which they may be appointed at the next preceding general election, and one inspector, one return inspector and one clerk shall, in all cases, be selected from the political party which polled the next highest number of votes in the said division at the said election, and no overseer who may be appointed shall be of the same political party as the judge in the same division.

The election officers aforesaid and the clerks and overseers shall be sworn or affirmed according to law, and shall possess all the qualifications now required by law for election officers, and the election shall be conducted in conformity with the general election laws of this Commonwealth, so far as they may be consistent with this ordinance; but no announcement of the state of the vote shall be made at any division until after the final closing of the polls. The duties and powers of overseers of said election in said city shall be the same as under existing laws applicable thereto.

At said election the copy of the registry to be furnished by said election commissioners as aforesaid, shall be presumptive but not conclusive evidence upon all questions of the right of any person offering to vote; but any duly qualified elector shall be permitted to vote notwithstanding his name may not appear upon said copy of registry, upon making proof of his right to do so according to the general election laws of this Commonwealth.

The general returns of the election in the said city shall be opened, computed and certified before the said commissioners of election, at such time and place and such manner as they shall direct, and their approval or disapproval thereof shall be endorsed thereon or annexed thereto, together (in case of disapproval) with a statement of their reasons for disapproving the same, and said general return for said city shall be made out and transmitted as is herein provided in case of other county returns.

Mr. DALLAS. Mr. Chairman: In preparing the amendment which has just been read, I have in great part merely

re-written the section as reported from the committee. In the few changes which I have made, I have been controlled by a desire to place checks upon the election officers and upon all those engaged in conducting the election, which would satisfy the people of this city and of the whole Commonwealth that, be the result what it may, the election had been fairly conducted.

In arranging those checks, I have done my utmost to arrange them thoroughly and fairly, and in such a way as to secure the confidence of all classes of the people, making the check in almost every case depend upon the fact that no man of any party could perform any part of his duty without being under the eye of a man of the opposite party. Having this purpose in view, I have made a few changes in the section as reported from the Committee on Suffrage and Elections, to which I ask leave briefly to direct the attention of this committee of the whole in order that they may understand them.

The first difference between the amendment which I have had the honor to propose and the report of the committee, is that I restore return-inspectors as a portion of the board of election officers in every division. In the report of the committee, return-inspectors are omitted; but inasmuch as the judge at the window must in every case be of one political party it is important that an inspector of each of the other political parties may sit beside him at the window, so that there may be no doubt of the propriety of his action; and in order to enable the inspectors, or as we call them here, the window-inspectors, to keep their seats at the window and assist the judge in his duty and be a check upon him, it is necessary that we should have return-inspectors, especially at the later end of the day when the votes begin to be counted. That is the reason for restoring those officers. That is the first change that is made in my amendment as contrasted with the report of the committee.

The second is that I provide that the two clerks to be appointed to assist the election board in the performance of their duties (and in fixing upon two as the number of clerks my amendment and the report of the committee agree) shall be appointed by the commissioners, instead of being selected by the respective inspectors appointed by the commissioners. My purpose in that was this. I have confidence in the board of

five commissioners which this body has elected, and I desire that for every person who shall be inside of the election room on the day of the voting those election commissioners shall be directly responsible, and I do not want to lower that responsibility a single shade or degree. That is the second change that I have made in my amendment.

The third is in relation to the overseers of election. By the report of the committee it is provided that overseers may be appointed either by the commissioners or by the court of common pleas. Now there is no law in existence that directs the court of common pleas to appoint overseers for this, our special election. I have a serious doubt as to whether they would feel disposed or authorized to assume the jurisdiction which the report of the committee proposes to cast upon them. I do not care to go fully into that consideration. It is enough to say that there may be a reasonable doubt about their willingness to assume a jurisdiction which no existing Constitution and no law on the statute book has imposed upon them. But, sir, it is also under the report of the committee an alternative jurisdiction; it is to be exercised either by the commissioners or by the court of common pleas. I propose, by my amendment, that that jurisdiction, the appointment of overseers, shall be exclusively in our commissioners, that they shall exercise that power whenever any two of their number require it, so that a minority of the board of commissioners may have the right, as it is fair they should have the right, whenever in any district, in their opinion, there should be an overseer simply to watch the election; and I have provided that in every election division that overseer shall be of the party that has not the judge. The judge will always be—and I will come to that in a moment—of the party that had, at the last previous election, a majority of votes in the respective division, and the overseer will be of the opposite party.

There was an omission I think, and a very important one, in the sixth division of the section reported by the committee in this, that it omitted in any manner to provide for the filling of vacancies in this board of commissioners. I have provided by my amendment that this board of commissioners may fill their own vacancies, and that also, they may revoke any appointments which they may find that

they have inadvisedly made, and that all vacancies occurring in any office to which they originally appoint, may also be filled by them; and as a matter of fairness and propriety, I have provided that all vacancies occurring, either in the board of commissioners or amongst the election officers, shall be filled by a man of the same party as the one whose place is filled. I have provided no check for a disregard of this provision, because my faith in the board of commissioners is such that I am satisfied they will fairly carry out the view I have suggested.

There was a further omission in the report of the committee in this, that it provides no means for furnishing to the election officers of the city, the tally-lists, books, and other articles necessary for them to have in conducting the election. I have in the amendment which I have written, inserted that all papers, books and other articles necessary for the conducting of the election in the respective divisions, shall be furnished by this board of commissioners that we have appointed.

As to the effect of the registry lists, I shall first say one explanatory word and then state what it is that by my amendment I propose to do in regard to it. In the first place, complaint has been made, and in consequence of that complaint, action on the part of this Convention has been taken—complaint has been made that in all cases the registry lists cannot be absolutely relied upon for fairness and justice. I will not go into that now, but certain it is that as now compiled, they will not be complete lists for the election which we have in view. The result of removals and deaths, the natural increase of voters upon age and of population, is that those lists cannot be complete. The report of the committee provided that our commissioners should revise and correct those lists. I submit to this committee that no five gentlemen who ever lived could correct the registry lists between this and election day for all the election divisions in the city of Philadelphia. It would absolutely necessitate the appointment of canvassers or some officers to take the place of canvassers to sit for the purpose of revising those lists in the separate divisions. It is utterly impossible that five gentlemen should do that thing; and as I do not think it is advisable, perhaps not even possible, that they should appoint all over the city, in addition to the election officers they have to

appoint, men to revise the lists and sit to hear citizens on the subject. I have stricken out of my amendment any such obligation upon the commissioners at all, and I provide that in lieu of that they shall send to the election officers all over the city copies of the last registry lists, and then I provide that those registry lists shall be presumptive, but not conclusive evidence on all questions relating to the right of persons applying to vote; and that in accordance with our own section on the subject, no man shall be absolutely prevented from voting because his name does not appear upon the registry, but that upon being sworn—and I require that all who do not appear on the registry shall be sworn—and qualifying himself before the election officers as provided by the general election laws of this State, he may be permitted to vote. That is the effect that I have given to the registry lists now in the office of the commissioners of the city.

Sir, these are certainly the principal, I think the only material alterations that I have made in the report of the committee by the amendment I have offered. Those alterations, certainly the most of them, gentlemen will find are important, I think, improvements. Certainly one or two of them, at least, are absolute necessities. They provide for cases of absolute omission in the report. To enable us to carry on the election at all, we must have the substance of what is in this amendment.

Mr. J. W. F. WHITE. This is a Philadelphia matter, in which, as a citizen, I have no particular interest, except so far as, as a member of this Convention, I am called upon to vote on such a proposition. I cannot vote for the substitute offered by the delegate from Philadelphia and I cannot vote for the original proposition, because I believe that, as a Convention, we have no power to do what is here proposed. I shall not attempt to elaborate my argument; it will be impossible to do so in the space of ten minutes; and I merely protest against the exercise of any such power in this Convention.

Mr. Chairman, we are living under a Constitution. We are not a disorganized body. We are not forming a State or forming a new Constitution for a people not governed by regularly established law and by a Constitution. This Convention is called in pursuance of the second section of the ninth article of our

Constitution, which provides that the people have the right to alter, reform or abolish their government, in such manner as they may think proper. In pursuance of that section of our Bill of Rights, the people, through their representatives, have called this Convention to propose amendments to the present Constitution. That instrument remains in full force until abolished or amended.

Now what is proposed here, I submit to the members of the Convention, is pure legislation, direct legislation by this body. The very first section in our present Constitution says, that "The legislative power of this Commonwealth shall be vested in a General Assembly, composed of a Senate and House of Representatives."

While that Constitution remains, no other body called into existence in Pennsylvania possesses any legislative power unless it is conferred upon it by the Legislature. If the whole of the people of Pennsylvania were assembled in Convention they could not pass any statute legally or properly. We have no powers, Mr. Chairman, according to my construction of the Constitution, except those conferred upon us. Under the act of Assembly calling this Convention into existence, we are clothed with certain powers, the only powers mentioned in the fourth, fifth and sixth sections of that act. One of these sections is, and I will read it although I do not want to weary the attention of this body:

"SECTION 6. The election to decide for or against the adoption of the new Constitution, or specific amendments, shall be conducted as the general elections of this Commonwealth are now by law conducted; and it shall be the duty of the return judges of the respective counties, first having ascertained the number of votes given for or against the new Constitution or separate specific amendments, if any, to make out duplicate returns thereof, expressed in words at length, one of which returns, so made, shall be filed in the office of the prothonotary of the proper county, and the other sealed and directed to the Secretary of the Commonwealth; which said returns shall be opened, counted and published as the returns for Governor are now by law counted and published; and when the number of votes given for or against the new or revised Constitution, or for or against separate specific amendments, if any, shall have been summed up or ascertained, and the

duplicate certificates thereof delivered to the proper officers, the Governor shall declare, by proclamation, the result of the election; and if a majority of the votes polled shall be for the new or revised Constitution or for any separate or specific amendments, such new or revised Constitution and separate specific amendments shall be thenceforth the Constitution of this Commonwealth."

Mr. Chairman, this act of Assembly expressly provides that the election must be held under the general election laws of the State and by the regular election officers, because they and they only are to count the votes and make the returns. By what power do we undertake to repeal this act of Assembly, because the proposition now before us is to repeal the act of Assembly? Disregarding it is repealing it.

Not only that, but we propose to repeal all the election laws in force in Philadelphia, displace all the election officers and appoint other election officers to conduct the election here. That is in direct conflict with the act of Assembly. Have we as a Convention any such power? If we have such power, then we are unlimited in our power; we are above the Constitution; we can act in defiance of our present Constitution, as well as in defiance of all the laws of the State. If we have power to repeal one statute, we have power to repeal all. If we have power to make one enactment, we have power to make any other. If we have power to do this, we have power to go to Harrisburg and seize the Treasury of the Commonwealth and do what we please with the money, make appropriations of it to ourselves or any others, or do anything else.

I simply wish to present my protest against any such construction of our power, and to say that I shall vote against this section, against this amendment, and against the original proposition, they all being of a similar character. The only argument that I have heard in support of such power being possessed by this Convention is that the Constitutional Convention of 1790 ordained a Constitution, when the act of Assembly said they should submit it to a vote of the people. I regard that as revolutionary. The power of the Convention to do so was not called into question until after the new government had gone into operation, until the revolution was perfected, and then, like all accomplished revolutions, it was

sustained. As a citizen of our State, acting upon my oath, sworn to sustain the Constitution of Pennsylvania until properly amended, and sworn to act with fidelity here, I must enter my earnest protest against repealing acts of Assembly and against the exercise of such powers by this Convention as are here proposed.

Mr. WOODWARD. It may be possible that the amendment of my friend from Philadelphia (Mr. Dallas) is preferable to what we have before us in the report of the Committee on Suffrage, Election and Representation; but, sir, at this late hour it is quite impossible for any member of this Convention to institute such an examination or comparison of these complicated provisions as to enable him to exercise a proper discrimination between the two.

Mr. H. G. SMITH. If the gentleman will give way, as this question is one which involves serious complications and it is getting late, I will move that the committee of the whole rise, report progress, and ask leave to sit again.

Mr. WOODWARD. I have no objection.

Mr. BIDDLE. I was about to state a reason why the committee of the whole ought to rise. There are two plans now before the committee in regard to the election in Philadelphia. I will say in passing that I differ altogether with the gentleman from Allegheny (Mr. J. W. F. White) who spoke last, but it is not necessary that I should state why I differ now. There are two plans, as I remarked, concerning the manner of election in this city, each of which has something in it, as I am informed by gentlemen who are familiar with this subject, and who have studied it out and calculated its workings carefully, that possesses sufficient merit to entitle the Convention to adopt it. It is impossible, however, to-night, in the remnant of the evening that is left, to incorporate into one section the good provisions of both these plans. It can be done at a very early hour to-morrow morning, and I therefore hope that the committee of the whole will rise and be given permission to sit again to-morrow.

The CHAIRMAN. Does the gentleman from Philadelphia give way to a motion that the committee rise, report progress, and ask leave to sit again?

Mr. WOODWARD. I yield the floor cheerfully for that purpose.

Mr. H. G. SMITH. Mr. Chairman, I move that the committee of the whole

rise, report progress and ask leave to sit again.

The motion was agreed to. The committee rose, and the President having resumed the chair, the Chairman (Mr. Purman,) reported that the committee of the whole had had under consideration the ordinance for submitting the amended Constitution of Pennsylvania to a vote of the electors thereof, and had instructed him to report progress and ask leave to sit again.

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

Mr. ARMSTRONG. I desire to submit a proposition in lieu of part of the ordinance and ask that it be read.

The CLERK. It is proposed to substitute for sections three, four, five and six of the ordinance the following:

"The Secretary of the Commonwealth shall, at least twenty days before the said election, furnish to the county commissioners of each county, a sufficient quantity of blanks properly prepared, of all necessary tally-lists and returns and circulars of instructions.

"The county commissioners of the several counties shall cause to be prepared printed ballots to the number of three times the number of voters in each county—of both affirmative and negative votes; and the said commissioners shall, at least five days before said election, cause to be fairly distributed to the several election wards in each election district, in their respective counties, the said ballots, blanks, tally-lists and returns, and circulars of instructions.

"The ballots shall be in the following form: For all persons giving affirmative votes there shall be printed on the outside of the ticket the words 'New Constitution,' and in the inside the words 'For the new Constitution.' For all persons giving negative votes, there shall be printed on the outside of the ticket the words 'New Constitution,' and in the inside the words 'Against the new Constitution.'

"The necessary expenses incurred by the commissioners of the several counties as above required shall be reported by them in detail to the Auditor General, and upon being approved by him shall be paid by the State."

The PRESIDENT. The proposition will be laid upon the table and will be printed.

ORDER OF BUSINESS.

Mr. T. H. B. PATTERSON. I move that the Convention proceed to the third reading of the Schedule.

Mr. BROOMALL. I second that motion.

Mr. D. W. PATTERSON. Let us not go too fast. We must not place the Schedule out of reach. There are several matters

to be incorporated into the Schedule before we adjourn, and we are not yet on the second reading of the ordinance.

Mr. CALVIN. I move that the Convention do now adjourn.

The motion was agreed to, and the Convention (at ten o'clock and nineteen minutes, P. M.,) adjourned until to-morrow morning at half-past nine o'clock.

ONE HUNDRED AND SEVENTY-SEVENTH DAY.

FRIDAY, October 31, 1873.

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

Prayer by Rev. J. W. Curry.

The CLERK proceeded to read the Journal of yesterday's proceedings.

Mr. WOODWARD. I move that the further reading of the Journal be dispensed with.

The PRESIDENT. Is there objection to dispensing with the further reading of the Journal? The Chairman hears none, and the reading is dispensed with.

PAY OF CHAPLAIN.

Mr. WOODWARD. I offer the following resolution:

Resolved, That the sum of one hundred dollars be paid to Rev. James W. Curry, out of the Convention fund, as a testimonial of respect for his voluntary services as Chaplain of the Convention.

The resolution was read twice and agreed to, *nem. con.*

PAMPHLET COPIES OF CONSTITUTION.

Mr. BRODHEAD offered the following resolution, which was read twice and considered:

Resolved, That fourteen thousand copies of the new Constitution be printed in pamphlet form for distribution by the delegates.

Mr. BRODHEAD. I hope this resolution will be adopted. The result of my observation has been that those few pamphlet copies which were printed of our Constitution as we passed it on second reading, did more to give the people an idea of what we were doing, than all the publication there has been in the newspapers. I believe it proper to publish the Constitution in the newspapers, but I really think it will do more good in pamphlet form. If the Constitution is adopted, those fourteen thousand copies will be in existence throughout the State, and the people will have a better knowledge of our Constitution than they have ever had before. After deliberation, I think it is the true way to submit this matter to the people. Printing fourteen thousand copies

will allow each member to have about one hundred copies, and those distributed, in the language of the day, "where they will do the most good," I think will have a very happy effect in giving the people a knowledge of what we have been doing here.

Mr. KATNE. I should like to inquire of the mover of the resolution what will be the probable cost of fourteen thousand copies.

Mr. BRODHEAD. I have no idea, but I presume the cost will not be very large.

Mr. COCHRAN. I am anxious that this Constitution should have as thorough circulation as possible; but I do not think it is advisable to print 14,000 copies of it in pamphlet form. 14,000 copies would be a mere flea bite in the matter of distribution among a people who can give over 600,000 votes and have cast them in this Commonwealth, and I think it would be a waste of money to put it in that shape. I am very anxious to get it distributed, and I think the true way to do it is through the newspaper press of the State. I therefore move to amend this resolution by striking out and inserting what the Clerk I presume has on his table, a resolution offered by me yesterday morning.

The CLERK read the amendment, as follows:

"That in the opinion of this Convention it is very important that the Constitution adopted by it should be published in more than two newspapers in each county, and that the Secretary of the Commonwealth be requested to have it published in not more than three consecutive issues of every newspaper in the State, for such reasonable charge for the service as he may first establish for each class of papers."

Mr. COCHRAN. Now, Mr. President, I merely wish to say with regard to this amendment, that it will no doubt incur a very considerable expense; but if the Secretary of the Commonwealth, who has the control of this matter of publication under the statute, complies with the request of this amendment, it will carry this Constitution into the hands of by far

a larger number of voters of the State than any other way in which you can circulate it. It can be circulated in this way without expense or trouble to delegates. It will not be a matter of personal labor to delegates, giving it only to those who are their particular friends; but it will go into the hands of the voters at large. Nearly every paper in the State is read by five or six different persons, not merely by those whose names are on the subscription lists, and it is the most diffusive way which you can adopt to get this Constitution before the people. I hope, therefore, unless there are countervailing reasons that I do not at present understand, that this amendment will be adopted to the original resolution, or if it be not, then I hope the original resolution will be voted down.

Mr. LILLY. I should like to make a suggestion to the gentleman before he sits down. I suggest that the Secretary be directed to provide for the publication in all the political papers of the State of the different parties.

Mr. COCHRAN. There are a great many papers in the State which are not political, that circulate among a different class of people and are better papers than the political papers in many cases.

Mr. BRODHEAD. I am in favor of the publication in the newspapers also, but we all know what will be the result of the publication of this Constitution in the newspapers. It will go into stoves, paper baskets and waste places; but the Constitution in pamphlet form will be kept in the little libraries of our people at home and it will be read. In the newspapers you will get one fraction one week and another fraction in another week; you will get it by instalments; and before the last is received the first will be gone.

Mr. HOWARD. I hope both of these propositions will be adopted. They are both good. I trust the delegate from York will withdraw, for the present, his proposition to publish in the newspapers. His proposition is a good one; the expense will not be very extravagant to have three insertions in all the newspapers of the Commonwealth; but I hope he will withdraw it for the present and not let it stand as a substitute for the resolution of the delegate from Northampton. Let us adopt that resolution. We ought to have at least fourteen thousand copies of the Constitution in pamphlet

form. The delegates can put those copies into the hands of men of their personal acquaintance in the districts in which they reside, persons whom they regard as friendly to the instrument, persons who will be competent to explain it to their neighbors, and then let us print it in the newspapers for the information of the great body of the people of the Commonwealth.

Mr. BUCKALEW. This matter of publication in the newspapers was settled at Harrisburg in the Convention Act, and I am in favor of letting it alone. A very liberal arrangement was made there, that the whole Constitution, large as it is, should be published in two newspapers in every county of the State. The expense will be very heavy, of course, and a considerable burden upon the Treasury. But the gentleman from York now proposes to invite the Secretary of the Commonwealth to publish it in every newspaper in the State. How much is that going to cost? Certainly not less than \$75,000 or \$100,000, and to what good purpose? Everybody who wants to see the Constitution will get it under the terms of the act of Assembly in the newspapers.

I am in favor of the other proposition to print an edition of pamphlet copies, because they will pass into the hands of intelligent literary men throughout the State, members of the legal profession, county officers, and other officials who will be able to explain it to the people, and we shall have it in a form in which we can send it to the members of the Ohio Convention and the members of the commission in New Jersey. It ought to be sent abroad. I am in favor, therefore, of the pamphlet publication, but I hope we shall let alone what the Legislature has done in regard to the printing in the newspapers. It is a very liberal arrangement. Why should we interfere with it?

Mr. COCHRAN. While I am not in favor of the original proposition, I have been appealed to to let a square vote be taken upon it, and I withdraw my amendment for that purpose.

The PRESIDENT. The amendment is withdrawn. The question is on the resolution.

Mr. HAY. I am in favor of printing the Constitution in pamphlet form and circulating it throughout the State, but I think the number mentioned in this resolution is entirely too small. 14,000 are not enough by any manner of means. I do not think

that 50,000 would be too many. During the next five weeks it will be impossible to circulate this document too widely. It ought to be in the hands of every intelligent voter, every person who is capable of reading and understanding its provisions. I hope that if the resolution is agreed to, (and I am heartily in favor of it,) the number will be largely increased. It ought to be 50,000 at least.

Mr. KNIGHT. I favor this resolution, but if the gentleman who offered it will consent, I will move to make the number twenty-one thousand.

Mr. BRODHEAD. I accept that modification.

The PRESIDENT. The resolution will be so modified.

Mr. KNIGHT. I think this is the proper way to get information of our work before the people. The Constitution printed in this form will be taken into the houses and read, where newspapers containing it will be cast aside.

The PRESIDENT. The question is on the resolution as modified.

Mr. NEWLIN. I simply desire to call the attention of the Convention to the fact that that will give one copy of the Constitution to about every thirty voters.

Mr. HAZZARD. I should prefer to have the Constitution published more extensively in the newspapers. If we discriminate and publish it in two or three newspapers in each county where there are four or five, the others will not feel very friendly; they will feel very much aggrieved that they are not authorized to make the publication.

Mr. AINEY. It seems to me that this resolution is incurring an unnecessary expense. The pamphlet that we ordered prior to the adjournment for the summer vacation was not furnished to members for over six weeks after the adjournment. The number ordered then was comparatively small. I apprehend that if these twenty-one thousand should now be ordered, they will not reach members until after the election, and this expense will be incurred without a purpose. I can see no real good to be accomplished by the resolution, and I am opposed to it.

Mr. BAER. I am opposed to the publication of the Constitution in pamphlet form, unless we can publish enough to give every voter in the State a copy. That, of course, we cannot do. The only thing I was spoken to about concerning our work, during my recent visit home,

was upon this very subject. The people there inquired whether or not the Constitution was going to be published in the newspapers, and in all the newspapers of the county. I told them that I supposed of course it would, and I hope this Convention will so order, that the Constitution be published in all the newspapers of the State, not only political, but religious, no matter of what class or creed they may be, because they are all interested in the adoption of this instrument. But if you provide for 21,000 pamphlet copies, how many people in any one county are going to get those? Those who do not get them will consider that they are slighted. The true way is to publish it in all the newspapers of the State, so that every voter will have an opportunity of seeing it, no matter what his politics or creed may be.

Mr. HARRY WHITE. I move to amend the resolution, by striking out all after the word "Resolved," and inserting the following:

"That the Committee on Printing and Binding shall have printed in sheet form the new Constitution, and that as many copies be furnished to the different newspapers of the State as they each have subscribers, and that each of said papers be allowed at the rate of \$10 per thousand circulation for distribution; and that the Auditor General settle the accounts in the usual way."

From a casual reading of the amendment, the Convention cannot gather the idea. I am not devoted to this idea particularly, for I confess that to do justice in this matter is a troublesome problem. I agree with the delegate from Columbia that the law fixes the manner of publication, but I know very well that the Secretary of the Commonwealth will very gladly be relieved from the performance of that duty, and if this Convention undertakes to prescribe the manner of publication the Secretary of the Commonwealth will be perfectly satisfied and will not undertake to publish under the law, because I give you my word for it, if delegates have not made the calculation, that the expense of publication, according to the act of Assembly, will be enormous; it will be a tremendous burden upon the treasury. If we can relieve ourselves and the State from that burden, and at the same time give the necessary circulation to our work, it is proper for us to do so.

This proposition requires the Committee on Printing and Binding to arrange with the State Printer, our contract printer, to publish in sheet form as many copies of the Constitution as there are subscribers to the different newspapers of the State. It will be his duty to obtain a list of all the papers published in the State, and to ascertain from the publisher of each, under oath, the amount of its circulation, and then to each newspaper there will be sent the same number of copies of this sheet that it has subscribers. Then this provides for allowing a cent and a half for putting one copy of the Constitution inside of each newspaper published, and enclosing it to each subscriber upon the books of a newspaper. Thus this sheet form will answer our purpose. I have no objection whatever to publishing a number of pamphlets for distribution, say 10,000 copies. There is no difficulty about that, but I certainly think the plan I have suggested here is a feasible one.

Mr. D. W. PATTERSON. I merely wish to say that I think it would be a useless expense to publish the Constitution in pamphlet form. The people will not read it if so published. Let us put the money that would be required for that purpose, to such use that the Constitution will be circulated by means of the newspapers, when it will be seen by every person and by every person read. I hope that we shall not go to the expense of publishing the Constitution in pamphlet form.

Mr. DE FRANCE. I do hope that this Convention will not throw away any more money in publishing pamphlets. Pamphlet copies of the Constitution as it had passed second reading, were ordered in July, when we adjourned for the summer, and what became of them? As to mine, I heard that they were coming, but they did not reach me in time to do any good. Now we have only three or four weeks in which to get up these pamphlets and send them out, and circulate them through the State. They cannot be received by the people in time to do any good, and I hope that we shall print this Constitution in the newspapers of the State. Upon that point, however, one difficulty arises. We have seven papers in our county, and are you going to put this Constitution in only two of these papers, to the exclusion of the other five? As far as our county is concerned, I do

not know which paper has the most circulation. Perhaps those papers which are published at the county seat print more copies than the others; but I know that the warmest friends of this Constitution are not to be found among the editors who live in the borough of Mercer. Perhaps one of those editors is friendly to our work, but the editors who live in the boroughs of Granville and Sharon are the best friends of our Constitution, and I go for publishing this Constitution in all the papers of the State, or especially in the papers that will be friendly to our reforms.

Mr. EWING. I hope this resolution will pass as offered by the gentleman from Northampton (Mr. Brodhead.) I think it will put the Constitution in the proper form before the people, where it can be examined fairly by the most intelligent people of our Commonwealth, and where it can be distributed in the pamphlet sheet throughout the State.

In answer to the statement made by the gentleman from Mercer, that after our summer adjournment, the Constitution as it had passed second reading was not printed in pamphlet form for a considerable time. I desire simply to state that this fact was not due to the neglect of the State Printer and perhaps not to the neglect of any officer of this body. The State Printer had to send to Bedford and to several other portions of the State to get some one to read the proofs and correct the pamphlets before they were sent out, and finally the delegate from Fayette (Mr. Kaine) attended to correcting the copy when the distribution was made. We cannot now print and circulate the Constitution in pamphlet form in time to reach any large number of the people of the State; but in this sheet form, in which it is proposed to print the instrument, it can be spread broadcast to our people inside of ten days, and will be received and read by every family.

Mr. HARRY WHITE. I do not want to interfere with this pamphlet, but I am in favor of some disposition being made of this subject. I will withdraw the amendment at the present time and introduce it afterward.

The PRESIDENT. The amendment is withdrawn.

Mr. BRODHEAD. I then move to amend the resolution by adding the following proviso:

“*Provided*, That the State Printer shall furnish the same for distribution within ten days after adjournment, printed in the style of the Journal.”

Mr. BROOMALL. How will the resolution then read as amended?

The PRESIDENT. The resolution as proposed to be amended will be read.

The Clerk read as follows:

“*Resolved*, That 21,000 copies of the new Constitution be printed in pamphlet form for distribution by the delegates: *Provided*, That the State Printer shall furnish the same for distribution within ten days after adjournment, printed in the style of the Journal.”

The PRESIDENT. The gentleman from Northampton has modified his resolution. The question is upon the resolution as modified.

Mr. H. W. PALMER. Upon that question I call for the yeas and nays.

Mr. BRODHEAD. I second the call.

Mr. ARMSTRONG. Before the vote is taken I desire to make a suggestion to the gentleman from Northampton. I hope that the part which requires these pamphlets to be printed in the form of the Journal will be stricken out. The cost of setting the Constitution in type will not be large and I would prefer it printed in type of sufficient size to enable old men to read it. I would desire it in the type used in the Convention Manual, for printing of the “rules for the regulation of the proceedings of the Convention.”

Mr. BRODHEAD. At the suggestion of the gentleman from Lycoming I withdraw the latter part of the resolution, the words “printed in the style of the Journal.”

The PRESIDENT. The resolution is before the House and the question is upon agreeing to it. Upon that question the yeas and nays have been asked for and the Clerk will proceed with the call.

The yeas and nays were taken with the following result:

Y E A S.

Messrs. Andrews, Armstrong, Bally, (Perry,) Bannan, Barr, Beebe, Bigler, Black, Bowman, Brodhead, Broomall, Brown, Buckalew, Calvin, Clark, Corbett, Curry, Curtin, Darlington, Elliott, Ellis, Ewing, Finney, Fulton, Gibson, Green, Hall, Harvey, Hay, Hemphill, Horton, Howard, Kaine, Knight, Lamberton, Lawrence, Lilly, Littleton, Long, M’CLean, Mantor, Newlin, Niles, Parsons, Patterson,

T. H. B., Patton, Purviance, John N., Purviance, Sam’l A., Read, John R., Runk, Sharpe, Smith, Henry W., Smith, Wm. H., Stewart, Struthers, Temple, Van Reed, Wetherill, J. M., Wherry, White, David N., White, Harry, White, J. W. F. Woodward, Worrell, Wright and Walker, *President*—86.

N A Y S.

Messrs. Ainey, Alricks, Baer, Baker, Barclay, Biddle, Carter, Church, Cochran, Collins, Cronmiller, Davis, De France, Dodd, Dunning, Edwards, Guthrie, Hazard, Hunsicker, MacConnell, M’Camant, M’Culloch, M’Michael, M’Murray, Mott, Palmer, G. W., Palmer, H. W., Patterson, D. W., Porter, Pughe, Reed, Andrew, Rooke, Ross, Russell, Simpson and Turrell—36.

So the resolution was agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Bailey, (Huntingdon,) Bardsley, Bartholomew, Boyd, Bullitt, Campbell, Carey, Cassidy, Corson, Craig, Cuyler, Dallas, Fell, Funck, Gilpin, Hanna, Heverin, Landis, Lear, MacVeagh, Mann, Metzger, Minor, Mitchell, Purman, Reynolds, Smith, H. G., Stanton and Wetherill, Jno. Price—31.

EXECUTIVE COMMITTEE.

Mr. NEWLIN. I offer the following resolution:

Resolved, That an executive committee of sixteen members be appointed by the Chair to secure due publicity for the work of this Convention, *Providing*, no expense be incurred without the order of the Convention.

On the question of proceeding to the second reading and consideration of the resolution a division was called for, which resulted twenty-seven in the affirmative. This being less than a majority of a quorum the House refused to order the resolution to be read a second time.

TO-DAY’S SESSIONS.

Mr. DARLINGTON. I offer the following resolution:

Resolved, That the time for closing this session of the Convention be postponed until Monday next.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted fifty-one in the affirmative, forty-two in the negative. So the resolution was ordered to be read the second time.

The PRESIDENT. The question is upon the resolution.

Mr. LILLY. I move to amend by striking out all after the word "Resolved" and inserting:

"That the resolution passed last Monday providing for the closing of this session of the Convention to-day at two o'clock P. M. be and the same is hereby rescinded."

Mr. ARMSTRONG. I move to amend the amendment by striking out all after the word "Resolved," and substituting as follows:

"That the Convention will take a recess to-day from one o'clock P. M. to two o'clock P. M. and from five o'clock P. M. to seven o'clock P. M., and that the evening session shall be without limitation, and all orders inconsistent with this be rescinded."

Mr. LILLY. I accept that as an addition to my substitute.

Mr. DARLINGTON. Mr. President: I am perfectly satisfied that the amendment of the gentleman from Lycoming shall be added to my resolution, but I think we had better fix Monday, and if we cannot get through by Monday we can again postpone it.

Mr. ARMSTRONG. "Sufficient unto the day is the evil thereof." If we can get ready to adjourn to-morrow, we had better do it.

Mr. LILLY. I accept the amendment of the gentleman from Lycoming as a modification of mine, to be added to it.

The PRESIDENT. The question is on the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDENT. The amendment as modified is before the Convention. It will be read.

The Clerk read as follows:

"Resolved, That the Convention will take a recess to-day from one to two o'clock P. M., and from five to seven o'clock P. M., and that the evening session shall be without limitation; and all orders inconsistent with this be rescinded."

Mr. KAINE. I inquire of the gentleman from Lycoming what becomes of the resolution fixing the adjournment at two o'clock to-day.

Mr. ARMSTRONG. That is rescinded by this.

Mr. STEWART. I move to amend by adding to the resolution "that when the

Convention adjourns to-night it will adjourn to meet at Harrisburg."

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

The amendment was rejected.

Mr. COCHRAN. I only wish to say that I do not think from the exhibition we have had of evening sessions, and the session of last evening especially, that anything is gained in time or profit or dispatch of business by holding an evening session.

The PRESIDENT. The question is on the resolution as amended.

The resolution as amended was agreed to.

LUCIUS ROGERS.

Mr. KNIGHT offered the following resolution, which was read twice and considered:

Resolved, That \$300 be paid to Lucius Rogers as clerk on the Committee of Revision and Adjustment.

Mr. JOSEPH BAILY. I offer an amendment to that. I move that two hundred dollars be added to the salary of the Sergeant-at-Arms and his assistant, and the door-keeper and his assistant. ["No!" "No!"]

Gentlemen, I wish to say a word on that. I have offered the amendment in good faith. These men have been here: heavy expense, and I think it would be proper to pay them this additional amount. I hope every generous-hearted man will vote for it.

Mr. LILLY. I think the original resolution is a very different thing from the amendment. Mr. Rogers has been employed by the Committee on Revision and Adjustment every night for months past, worked until twelve o'clock at night, and he ought to be paid for that work. He has been a very faithful officer of this Convention, as everybody knows, and he ought to be paid for that service. I think that is a proper expense of the Convention.

The PRESIDENT. The question is on the amendment of the gentleman from Perry (Mr. Joseph Baily.)

Mr. JOSEPH BAILY. I ask for the yeas and nays.

Mr. HAY. I should like to inquire whether it is in order to ask for a division of the amendment, so as to confine it to the principal officers. If it is in order I ask for a division of the amendment.

The PRESIDENT. The call for a division is in order. Where shall the division end?

Mr. HAY. To end with the word "sergeant-at-arms."

The PRESIDENT. The amendment will be read, so as to ascertain where it can be divided:

Mr. JOSEPH BAILY. At the request of several gentlemen I withdraw the amendment.

The PRESIDENT. The amendment being withdrawn, the question is on the original resolution.

The resolution was agreed to *nem. con.*

CONSTITUTION IN SHEET FORM.

Mr. HARRY WHITE. I offer the following resolution:

Resolved, That the Committee on Printing and Binding shall have printed, in sheet form, the new Constitution, with the same type as that used for our Journal; that one copy for each subscriber they respectively have be furnished to the different newspapers of the State for distribution, and that each of such newspapers be allowed for distributing the same among their subscribers at the rate of ten dollars per thousand circulation; and that the account of such newspapers be settled by the Auditor General in the usual way.

The question of ordering the resolution to a second reading was determined in the negative.

EXECUTIVE COMMITTEE.

Mr. HOWARD offered the following resolution, which was read twice and considered:

Resolved, That a committee of thirty-three be selected by the delegates representing the several Senatorial districts of the State, who shall, from the body of the Convention, select an executive committee of five, whose duty it shall be to attend to the publication of the Constitution and any other matter in relation to the submission of the same, and to report to the Convention at Harrisburg.

Mr. HOWARD. I have offered the resolution because I believe there ought to be an executive committee to attend generally to the submission of the Constitution to the vote of the people. I have offered it in this form because I believe it is the fairest way, and—

Mr. BUCKALEW. I desire to say to the gentleman that if he does not get up a debate on it, I suppose the resolution will

be passed unanimously. ["Aye." "Aye."]

Mr. HOWARD. Very well.

The PRESIDENT. The question is on the resolution.

The resolution was agreed to.

JOURNAL INDEX.

Mr. HAY offered the following resolution, which was read twice and considered:

Resolved, That the Committee on Printing and Binding be authorized to have prepared a suitable index to the Journal.

Mr. AINEY. I move to amend, so as to have the Journal bound in two volumes. I think the Journal will be of more value to members by far than the Debates. It makes an unwieldy volume as it now is, but if bound in two volumes it will be much more convenient for reference.

Mr. HAY. The delegate from Lehigh is under a mistaken apprehension that the Journals that will be bound are of the size of the Journals on our desks. That is not the case. These Journals on our desks contain a great many blank leaves, which are omitted from the Journal that will be bound. The bound volume will not be, I think, over two-thirds the size of the Journal in sheets as it now lies on our desks.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

The PRESIDENT. The question is on the passage of the resolution.

The resolution was agreed to.

SATURDAY SESSION.

Mr. W. H. SMITH. I move that when the Convention adjourns to-night, it adjourns to meet to-morrow morning at half-past nine, if necessary.

The PRESIDENT. The question is on the motion of the gentleman from Allegheny.

The motion was agreed to.

DEBATES FOR OFFICIAL REPORTER.

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

Resolved, That in addition to the bound volumes of Debates already provided for the official reporter, he be allowed five.

CIVIL RIGHTS.

Mr. MACCONNELL, from the Committee on the Declaration of Rights submitted a report, which was read as follows:

The Committee on the Declaration of Rights, to whom was referred the following:

Resolved, That the following be added as an additional section to the article entitled "Declaration of Rights:"

That no law shall be made or enforced within this Commonwealth that discriminates in favor of any class of persons by reason of color or race, and all public institutions, educational or otherwise, all places for public amusement or for accommodation of travelers, shall be open to and enjoyed by all persons on equal terms."

Respectfully report that such a section in their opinion is unnecessary, the principle embodied therein being sufficiently declared not only in the fourteenth amendment to the Constitution of the United States but in the article, entitled "The Declaration of Rights" in the amended Constitution.

Mr. NEWLIN. I offer a minority report from the same committee, which I ask may be read.

The Clerk read the minority report as follows:

To the Constitutional Convention:

The undersigned earnestly dissents from the report of the majority of the Committee on the Bill of Rights, which denies equal civil rights to all citizens, and recommends that the new section proposed by General White be adopted, so that all citizens may be equal before the law.

J. W. M. NEWLIN.

Mr. TEMPLE. Now I move that we go into committee of the whole on the ordinance of submission.

Mr. HARRY WHITE. I think the question is on considering the report.

The PRESIDENT. The report is laid on the table.

Mr. HARRY WHITE. I move that the Convention proceed to the consideration of the minority report of the Committee on the Bill of Rights, and on that I call for the yeas and nays.

Mr. NEWLIN. I second the call.

Mr. TEMPLE. I rise to a point of order, that I had the floor first.

Mr. BUCKALEW. I call for the order of the day.

The PRESIDENT. The delegate from the city is insisting that he has the floor, desiring to move to proceed to the consideration of the Ordinance of Submission. The Chair has stated once or twice that the morning business is yet not through. As soon as that is through he

will recognize the gentleman to make that motion.

Mr. HARRY WHITE. Now I move that we proceed to the consideration of the report just made from the Committee on the Declaration of Rights, and I trust that report will be reversed.

The PRESIDENT. The orders of the day are called, and that is not in order.

Mr. HARRY WHITE. I move, then, to suspend the rules, and on that motion I call for the yeas and nays.

Mr. NEWLIN. I second the call.

The PRESIDENT. It is moved to suspend the rules for the purpose of proceeding to the consideration of the report of the minority of the Committee on the Declaration of Rights, and on that question the yeas and nays are asked for. The Clerk will call the names.

Mr. LAWRENCE. I wish to make a personal statement in connection with this report.

Mr. HUNSICKER and OTHERS. I object.

Mr. LAWRENCE. As one of the committee, I dissent from the majority report.

Mr. HARRY WHITE. We want that report reversed.

The PRESIDENT. The Chair understood that it was the report only of the minority which it was moved to take up. The Clerk will call the names.

Mr. HARRY WHITE. I want my motion to be understood. "Order!" "Order!" I do not move to proceed to the consideration of the minority report. My motion is to proceed to the consideration of the majority report, and I want that report considered and voted down.

Mr. KAIN. The gentleman is out of order.

The PRESIDENT. That certainly was not the motion the gentleman made.

Mr. HARRY WHITE. I beg the Chair's pardon; that was my motion.

SEVERAL DELEGATES. He said "minority."

The PRESIDENT. The delegate now modifies his motion by moving to proceed to the consideration of the report of the committee. The Clerk will call the names of delegates.

Mr. HARRY WHITE. I hope we shall proceed to its consideration.

Mr. KAIN. What is the question, to suspend the rules?

The PRESIDENT. To suspend the rules for the purpose of taking up the report.

The yeas and nays were taken and resulted as follow :

Y E A S .

Messrs. Alney, Andrews, Armstrong, Bally, (Perry,) Baker, Beebe, Bowman, Broomall, Campbell, Cassidy, Cochran, Curtin, Darlington, Davis, Edwards, Finney, Fulton, Green, Hazzard, Horton, Howard, Lawrence, Lilly, Littleton, M' Michael, Mann, Mantor, Newlin, Niles, Palmer, H. W., Parsons, Patterson, D. W., Porter, Purviance, John N., Purviance, Samuel A., Rooke, Runk, Russell, Simpson, Stanton, Stewart, Turrell, White, David N., White, Harry, White, J. W. F. and Wright—46.

N A Y S .

Messrs. Addicks, Alricks, Baer, Barclay, Barr, Biddle, Bigler, Boyd, Brodhead, Brown, Church, Clark, Collins, Corbett, Cronmiller, Curry, Cuyler, Dallas, De France, Dodd, Dunning, Ellis, Ewing, Gibson, Guthrie, Hall, Hanna, Harvey, Hay, Hemphill, Hunsicker, Kaine, Lambertson, Landis, Long, MacConnell, M'Camant, M'Clean, M'Culloch, M'Murray, Metzger, Mott, Patterson, T. H. B., Patton, Pughe, Purman, Read, John R., Reed, Andrew, Ross, Sharpe, Smith, Henry W., Smith, Wm. H., Struthers, Temple, Van Reed, Wetherill, J. M., Wherry, Woodward, Worrell and Walker, *President*—60.

So the motion was not agreed to.

ABSENT.—Messrs. Achenbach, Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Black, Buckalew, Bullitt, Calvin, Carey, Carter, Corson, Craig, Elliott, Fell, Funck, Gilpin, Heverin, Knight, Lear, MacVeagh, Minor, Mitchell, Palmer, G. W., Reynolds, Smith, H. G., and Wetherill, Jno. Price—27.

PUBLICATION OF THE CONSTITUTION.

Mr. ARMSTRONG. I now move that we go into committee of the whole for the consideration of the Ordinance of Submission.

Mr. COCHRAN. I call for the orders of the day.

The PRESIDENT. The orders of the day are called for. The second reading of resolutions is in order.

Mr. COCHRAN. I move to proceed to the second reading and consideration of the resolution offered by me yesterday, with regard to the advertising of the Constitution in the newspapers of the State.

The motion was agreed to, and the following resolution was read the second time and considered :

Resolved, That in the opinion of this Convention it is very important that the Constitution adopted by it should be published in more than two newspapers in each county, and that the Secretary of the Commonwealth be requested to have it published in not more than three consecutive issues of every newspaper in the State, for such reasonable charge for the service as he may first establish for each class of papers.

Mr. CURTIN. I move to amend by striking out all after the words "more than two newspapers in each county."

Mr. COCHRAN. How will it read then? The CLERK. The resolution, if amended as proposed, will read as follows :

Resolved, That in the opinion of this Convention, it is very important that the Constitution adopted by it should be published in more than two newspapers in each county."

Mr. CURTIN. I think that is quite enough.

Mr. DARLINGTON. I suggest that the words "more than" be stricken out, so that it will read, "two newspapers in each county."

Mr. CURTIN. The delegate from Chester will remember that the law as it stands says that the Secretary of the Commonwealth shall publish the Constitution in two papers in each county. Now, we express the opinion of this Convention that he should publish in more than two, but leaving it to his discretion. I hope the gentleman from York will accept the amendment.

Mr. COCHRAN. I do not intend to delay the Convention by any remarks on this subject. A number of members are in favor of the proposition as it was originally presented, and I do not think the resolution would amount to much if it were amended in the way proposed. However, I submit the whole matter to the deliberate judgment of the Convention without debate. I adhere to the original resolution. If the majority are of the other opinion, very well.

The PRESIDENT. The question is on the amendment of the delegate from Centre (Mr. Curtin.)

The amendment was rejected, there being on a division, yeas 35, noes 41.

Mr. HOWARD. I move to amend the resolution by striking out all after the

word "Resolved" and inserting the following substitute:

"That the Secretary of the Commonwealth be requested, in addition to the two newspapers mentioned in the act of Assembly, to cause the proposed Constitution to be published in three additional daily newspapers of the largest circulation in the cities of Philadelphia and Pittsburg once a week for four weeks preceding the time of voting upon said Constitution, and once a week for four weeks preceding the election in the other daily newspapers of the State."

Mr. TEMPLE. I suggest that that portion of the amendment be stricken out which says that the Constitution shall be advertised in the papers of Philadelphia which have the largest circulation. That would give it to a certain class of newspapers read by a certain class of people.

Mr. COCHRAN. I wish merely to make this remark in regard to this amendment, and no more; that I see no advantage to be derived from publishing the Constitution four times. A single publication in a newspaper is just as good as four consecutive publications. It will reach the people, will be read by them, and the others will all be thrown away.

Mr. CURTIN. I am anxious that the people should understand what has been done by this Convention; but having once been concerned in the publication of amendments to the Constitution, I apprehend it is going to cost more than members are aware of. I should like some printer on the floor to tell me whether, as proposed by the gentleman from York, it will not cost over two hundred thousand dollars? I think it will cost certainly a quarter of a million to publish it in all the papers of the State. I am under the impression that it cost about seventy-five thousand dollars to publish the amendment to the Constitution which I had the honor to superintend, and then it was published in not more than half the papers of the State. I am perfectly willing to spread all intelligence before the people, but I think giving the Secretary of the Commonwealth the discretion to publish the Constitution in more than two papers would enable him to publish it in such a manner as to give the people full information. It is the question of money that I wish to consider.

Mr. HOWARD. I offer this proposition because I believe it is going to serve a

good purpose. The Secretary of the Commonwealth is authorized by the act of Assembly to publish in at least two newspapers. He may publish in more; he has the discretion to do so. This is no more than a request of this Convention to him on the subject. Undoubtedly, in the counties where they publish weekly papers merely, the two will be amply sufficient, and selecting a newspaper of each party, it will be likely to reach the great majority of our people. I wish the Convention to bear in mind that this is in addition to the publication in two newspapers authorized by law. It provides that in the city of Philadelphia, where they publish a large number of dailies, it shall be published in three additional daily newspapers of the largest circulation. We know very near what that will cost, and it cannot be a large sum of money, to publish it once a week for four weeks. It also provides that in the city of Pittsburg, the next largest city in the Commonwealth, where we have six or seven daily papers of large circulation, three additional newspapers may be selected to publish it once a week for four weeks, and then that it shall be published in all the other daily newspapers of the Commonwealth. In all the rest of the Commonwealth, I do not believe there are more than perhaps thirty or forty daily newspapers published outside of these cities, and therefore the additional expense of advertising cannot be a large sum. I think by providing for the additional publication in Philadelphia, the additional publication in Pittsburg and the additional publication in the daily papers that are published in the other cities of the Commonwealth, we shall afford a greater facility for information that will amply compensate for all the additional expense.

Mr. HANNA. I move that the resolution be indefinitely postponed.

Mr. COCHRAN. I call for the yeas and nays on that motion.

Mr. HOWARD. I second the call.

The yeas and nays were taken and were as follow, viz:

Y E A S.

Messrs. Addicks, Ainey, Baker, Bannan, Barr, Biddle, Bowman, Broomall, Brown, Buckalew, Bullitt, Carter, Church, Corbett, Cronmiller, Curtin, Darlington, De France, Dodd, Edwards, Ellis, Ewing, Gibson, Green, Hall, Hanna, Hazard, Hemphill, Horton, Hunsicker, Kaine,

Knight, Landis, Lawrence, Lear, Lilly, Littleton, Long, MacConnell, M'Camant, M'Clean, M'Murray, Metzger, Minor, Niles, Palmer, H. W., Parsons, Pughe, Reed, Andrew, Rooke, Ross, Russell, Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Wetherill, J. M., Wherry, White, David N., White, J. W. F. and Walker, *President*—63.

N A Y S.

Messrs. Achenbach, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Beebe, Bigler, Brodhead, Campbell, Cassidy, Cochran, Curry, Cuyler, Dallas, Davis, Finney, Funck, Guthrie, Hay, Heverin, Howard, M'Culloch, M'Michael, Mann, Mantor, Mott, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Purman, Purviance, John N., Purviance, Samuel A., Reynolds, Sharpe, Simpson, Woodward and Worrell—39.

ABSENT.—Messrs. Bailey, (Huntingdon,) Barclay, Bardsley, Bartholomew, Black, Boyd, Calvin, Carey, Clark, Collins, Corson, Craig, Dunning, Elliott, Fell, Fulton, Gilpin, Harvey, Lamberton, MacVeagh, Mitchell, Newlin, Porter, Read, John R., Runk, Smith, H. G., Stewart, Van Reed, Wetherill, Jno. Price, White, Harry and Wright—31.

So the motion was agreed to, and the resolution was indefinitely postponed.

Mr. EWING. If the regular orders of the day are through, I ask the indulgence of the Convention for about two minutes, to obtain unanimous consent for a change in the Judiciary article relative to the courts in Allegheny county which has the approbation of all the delegation from Allegheny county, the approbation of the chairman of the Committee on the Judiciary, and, so far as I have been able to find out, of all the delegation from the city of Philadelphia. The change I desire is to let the Allegheny county courts stand as they stood in the Judiciary article as it passed second reading, and let the additional provision that was inserted on third reading on the motion of the delegate from Delaware (Mr. Broomall) apply to Philadelphia alone and not to Allegheny county. It can be done by inserting at the end of the seventeenth line of section five, the words "in Philadelphia" as the beginning of a sentence, and by adding at the end of the section: "In Allegheny county, each court shall have exclusive jurisdiction of all proceedings

at law and in equity commenced therein, subject to change of venue as hereinafter provided."

I am satisfied that this will give much greater satisfaction to all the members of our bar and to all concerned.

Mr. ARMSTRONG. Without taking time to explain in detail anything in regard to this, I hope the amendment will be adopted. Allegheny county desires it unanimously, and Philadelphia makes no objection.

Mr. LITTLETON. I would like to ask the gentleman from Allegheny whether that amendment is not proposed to correct an evil in the courts of Allegheny county that does not really exist.

Mr. EWING. It leaves the courts of Philadelphia precisely as they now stand.

Mr. LITTLETON. As the gentleman does not answer my previous question, I will ask him why, when he makes this attempt to correct an evil in the judicial system of his own county, he does not at the same time apply it to Philadelphia.

Mr. EWING. I cannot do that without unanimous consent, but I will gladly join the Philadelphia delegation if they desire to have this provision extended to their city.

The PRESIDENT. The gentleman from Allegheny asks unanimous consent to make the amendment he has indicated to the fifth section of the Judiciary article. Shall unanimous consent be given?

Unanimous consent was given, and the amendment was made.

REPORTER'S ACCOUNTS.

Mr. BUCKALEW offered the following resolution, which was read twice and considered:

Resolved, That the Committee on Accounts and Expenditures be authorized to report a reasonable allowance to the reporter of the Convention for corrections and condensations of manuscript in reports of the debates and proceedings of the Convention.

Mr. BUCKALEW. A single word of explanation. This resolution is simply to authorize the Committee on Accounts and Expenditures, if it sees proper, to settle the accounts of the official reporter upon the basis of the actual manuscript which he has furnished. The manuscript as furnished by the reporter is corrected and condensed by the members very largely, and whatever percentage is taken off the Committee on Accounts and Ex-

penditures should allow. It is not a very large matter, but it is a matter of right.

Mr. LITTLETON. I desire to ask whether there is not a contract which regulates the business between the Convention and the reporter, and whether this resolution would not vary that contract. It seems to me that it would, and for one, I object to the resolution. This is practically an attempt to re-open the contract, and I think we had better get on with the business of the Convention, and not waste our time on a matter of this kind. I therefore move to lay the resolution on the table.

The motion was not agreed to.

The PRESIDENT. The question is on the resolution.

Mr. HAY. I would like to understand the full import of this resolution before it is passed; and, one thing in particular, upon which I would like to be informed, is whether the passage of this resolution will be a peremptory instruction to the Committee on Accounts and Expenditures to report an allowance for the official reporter. If so, I should like to have the certain percentage of allowance which is to be made, specified in the resolution. I do not care to have in this Convention any other duties imposed upon me than to audit the accounts according to the instructions of the Convention. If the Convention orders this, of course we shall act accordingly and report whatever the Convention directs us to report.

Mr. HOWARD. I would like the mover of this resolution to explain what it means and give some probable idea of the extent of expense involved in it.

Mr. BUCKALEW. The resolution is simply one of authority to the Committee on Accounts and Expenditures to make an allowance in favor of the official reporter for corrections and condensations of the manuscript which he and his corps of reporters actually write out and furnish. I did not fix the amount, but I have no objection to doing so. I suppose these corrections and condensations amount to eight or ten per cent., but if the Committee on Accounts and Expenditures insist upon an amount being fixed, I am willing to name the lowest possible limit and say five per cent.

Mr. NILES. Five per cent. upon what?

Mr. BUCKALEW. Five per cent. upon the manuscript furnished, I know the manuscript furnished to me of remarks I make is reduced at least ten words in a

hundred. A certain delegate now no longer in this Convention, used to reduce his manuscript about sixty per cent., and what we ought to do is to pay the official reporter for the manuscript furnished. There is no exact basis upon which a computation of this kind can be made, but there ought to be some allowance given the reporter to compensate for the losses necessarily incurred. I proposed leaving it to the Committee on Accounts and Expenditures; but if the gentleman from Allegheny desires to have the matter fixed, I will insert in my resolution the words "not exceeding five per cent."

Mr. LITTLETON. I desire to ask a question of the Chairman of the Committee on Accounts and Expenditures. What is the contract between the official reporter and the Convention, and does it not cover this specific item for which an extra compensation is endeavored to be given him at the present time?

Mr. HAY. In reply to the inquiry which has just been addressed to me, I desire to state that the contract of the Convention with the official reporter was made at Harrisburg. It has been printed in our Journals, and every member of this Convention has that contract before him. The gentleman from Philadelphia is just as I am. While it is true that the contract was drafted by a committee of which I was chairman, yet the contract having been approved by this Convention, every member of it knows just as much about it as I do. The contract will be found by reference to the Journal.

Mr. T. H. B. PATTERSON. With the permission of the gentleman from Allegheny, I will make one suggestion. It seems to me that by a mere resolution this Convention has no power to change our contract with the reporter.

Mr. BUCKALEW. This does not change the contract at all; it only executes it.

Mr. T. H. B. PATTERSON. I cannot see any other effect of this resolution except to modify the contract.

Mr. HAY. The contract will be found on page 119 of the Journal. The contract refers to a resolution of a previous date to which the gentlemen of the Convention can turn. The contract states that

"The official reporter will discharge the duties of his office with fidelity and in accordance with the terms of the resolution of the Convention relating to the compensation and duties of said reporter adopted on the twenty-sixth day of No-

member in the year of our Lord one thousand eight hundred and seventy-two."

Now if members will turn to the Journal of the twenty-sixth of November, they will there find the information that has been asked for.

Mr. HAZZARD. How much are the reporters paid?

Mr. HAY. Inquiry is made how much the reporters are paid. One dollar and forty cents per thousand *ems* of matter printed and furnished in the Debates.

Mr. LITTLETON. The resolutions under which the contract with the official reporter was made will be found at the top of page 101 of the Journal, and the proceedings upon that subject are as follows:

"Mr. Hay, from the Committee on Accounts and Expenditures of the Convention, made report:

"That it has had in careful consideration the resolution referred to it on the 20th instant, directing it to report 'what is the proper amount of compensation to be paid to a stenographer and his assistants;' and that the sum of one dollar and forty cents per thousand *ems* would be the proper amount of compensation to be paid to a stenographer and assistants for reporting the debates and proceedings of the Convention, which sum should include all stationery and other materials used by them in doing the work, and that there should be no allowance for advertisements or any other or further compensation whatever; the said stenographers to furnish fairly written, legible printers' copy, of the full proceedings and debates of each day, in time to have the same printed and laid upon the delegates' desks at the opening of the session of the next succeeding day; and further, that no responses to resolutions of inquiry of the Convention, letters, petitions, memorials or remonstrances should be included in said reporting, unless by the special order of the Convention.

"And the committee, therefore, reports for the action of the Convention the following resolutions:

"Resolved, That the compensation of the official reporter of the Convention, including the services of his assistants, for reporting the full debates and proceedings of the Convention, be and the same is hereby fixed at one dollar and forty cents per thousand *ems*; that the said sum shall include the cost of all stationery and other materials used in doing

the work, and that the said reporter shall furnish fairly written, legible printers' copy of the said debates and proceedings of each day, in time to have the same printed and laid upon the delegates' desks at the opening of the session of the following day.

"Resolved, That no responses from any of the Departments or other sources to resolutions of inquiry of the Convention, letters, petitions, memorials or remonstrances, shall be included in the said reporting unless by the special order of the Convention."

Under these resolutions, a contract was subsequently made, which will be found on the page mentioned by the gentleman from Allegheny.

Mr. BUCKALEW. Then the contract is for \$1 40 per thousand *ems* for the amount reported; and the committee have settled the accounts on the basis of the printed matter in the volumes. My resolution is to allow not exceeding five per cent. for the difference between what the reporters actually reported and were entitled to receive pay for under the contract and the amount which was taken off the volumes by the condensations directed to be made. It is a matter of simple, plain justice.

Mr. CURTIN. Mr. President, it seems to me that the proposition is not unreasonable. Delegates have chosen to cut down the work of the reporters. That is not their fault. They have performed the service; but inasmuch as delegates choose to either suppress or cut from their speeches they are not paid for all their work, and it seems to me to be a plain and reasonable proposition and not in violation of any contract to pay them for the actual work done, for which they do not receive pay, because it is the pleasure of the members not to have their work put in the reports.

Mr. SIMPSON. I trust this resolution will be adopted. I think it is a matter of sheer justice to the reporters that they should be paid for the labor they have performed. Now, I happen to know that these reporters have been called upon to report speeches that when handed to members for correction and change have been reduced by the page. I know of one speech that was taken down by the reporters of this Convention that being handed to the gentleman who made it for correction, was returned less than half of the amount they had reported and written

out. This is allowing but a percentage on their contract, for that which they are entitled to be paid under that contract, but which the committee have construed to be the printed matter and not the reported matter. I hope the resolution will be adopted.

Mr. H. G. SMITH. I have been treated with, I may say, marked courtesy by the reporters. I should like to do anything could for them. If they have had a hard bargain I should like to help them out; but upon my word I do not see how we are to do it on this resolution. I do not see how we can consistently do it. We can only consistently with the contract which we have with them and consistently with our duties as members of this Convention, pay them according to the contract.

Mr. BUCKALEW. That is the resolution exactly, that the accounts shall not be settled according to the printed pages but according to what they actually furnished. That is the point.

Mr. H. G. SMITH. I should like to know from the gentleman from Columbia, or anybody else on this floor, how we are to ascertain what they furnished unless by what is printed. The contract is so much per thousand ems. How are you going to ascertain it? By the printed matter, and I knew no other way that you can do it. Some members may have abbreviated their speeches; others may have enlarged them. Now I would like personally very much to vote for this resolution, but I cannot consistently with my sense of duty do it.

Mr. COCHRAN. It does really seem to me that this is a question between the reporters and the individual members who chose to curtail their speeches. The reporters were to report what was said here; and if gentlemen curtailed their speeches they should pay the reporters the difference themselves; and if they increased their speeches beyond what was said here and occupied more room in the Debates, then we paid for the additional matter that was put in.

Mr. D. W. PATTERSON. I hope this resolution will pass. I think it is entirely due to the official reporter on account of the able manner in which he has reported the debates of this Convention.

Mr. AINEY. I move to refer the whole subject to the Committee on Accounts to examine and report to this Convention whether the reporters have performed

any extra service beyond what the contract provided for, and what would be a fair compensation for such extra service, if any.

I am not prepared to vote intelligently on this question as it now stands. If the reporters have performed any service beyond what they contracted to do, I will cheerfully vote to compensate them reasonably for it, but I am not informed on that subject. I do not know at this time whether any extra services have been performed other than those that they undertook to do. I know that many members have delivered addresses in the Convention which were wholly written, which the reporter did not take down at all, and they have been printed in full. Now, if beyond that these reporters have performed any service for which they have not been paid, under the terms of the contract, I for one am willing to vote them a liberal compensation; but I want to be informed on that question before I vote for this resolution.

Mr. T. H. B. PATTERSON. I just want to call the attention of delegates to one particular. It seems to me that here is our contract in black and white. In making that we simply acted as the agents of the State. Now, the construction of that contract is a question between the Committee on Accounts and the reporter. If the Committee on Accounts does not give a proper construction to this contract, then the reporter has his remedy against the State; but we have no right whatever to change that contract by resolution of this body after the contract has been made. I submit that we cannot reduce the compensation of the reporter by a resolution, and certainly we have no right, acting for the State, to increase it. Whether there have been speeches reduced or not after they were reported, I do not know. I have heard statements to that effect; but I have also heard that there have been manuscript speeches handed in here and published as reported matter that never were reported at all, and I think the two items about off-set each other; but certainly we ought not to place ourselves in the ridiculous position of making a modification of this contract in this way. Let the reporter have justice.

Mr. HOWARD. I think the Convention is being enlightened somewhat. I supposed myself that what was uttered here in debate had to be printed, of course be-

ing subject to correction by members; and by correction we meant so as to express what they said. But if any members have been wiping out what they did say, they have not been fair to this Convention and to the other delegates. What men say here, in debate, they ought to be willing to stand to. The reporter, perhaps, is not to blame in any way, because members wiped it out; but they ought to pay for such things themselves.

The PRESIDENT. The question is on the resolution.

Mr. AINEY. No, I moved to refer it to the Committee on Accounts to inquire and report to the Convention whether any extra services have been performed.

The PRESIDENT. The Chair did not understand that the delegate had made that motion. Then that motion is before the Convention.

Mr. HAY. One word. For myself I object very much to any such reference; there is no necessity for it. The Committee on Accounts think they understand this subject; they have made up their own mind on the question, and it is not worth while to refer the matter to them for further report; nor at this stage of the proceedings of the Convention would it be possible for a report to be presented and properly considered. I hope no such reference as this will be made, but that the resolution will be considered by the Convention itself and either adopted or rejected directly, as the Convention may deem best.

Mr. AINEY. If the Committee on Accounts have examined this subject and know about it, I hope the chairman of the committee will state whether any extra services in his judgment have been performed, and if they have been, what would be a fair compensation.

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

The motion was not agreed to.

The PRESIDENT. The question is on the resolution.

Mr. DARLINGTON. Before that vote is taken I want to say one word. I would not wish to deprive the reporters of any proper compensation to which they may be entitled. We have not yet been informed what extra services have been rendered, save by allowing members to add to or deduct from speeches they had delivered here. Now I wish to know, in reference to the equity of this thing, whether the reporters are allowed pay for

stenographing in cases where gentlemen have written out and read their speeches and handed the manuscript to them, for I very well recollect, that one gentleman from Allegheny, sitting far from me, habitually read his speeches, and another sitting behind me frequently did. A gentleman from Lycoming read a long speech here; a gentleman from Philadelphia read another; a gentleman from Somerset read another, and with no limitation of time to do it. If all this has been paid for as stenographed matter, then I suppose it would balance the account as to those which were cut down. ["Question!" "Question!"]

The PRESIDENT. The question is on the resolution.

Mr. BUCKALEW. I call for the yeas and nays.

Mr. D. W. PATTERSON and Mr. DALLAS. I second the call.

Mr. STRUTHERS. I should like to hear the resolution read.

The PRESIDENT. It will be read.

The CLERK read as follows:

Resolved, That the Committee on Accounts and Expenditures be authorized to report a reasonable allowance to the reporter of the Convention for corrections and condensations of manuscript in the reports of the debates and proceedings of the Convention, not exceeding five per cent.

Mr. HAY. I should like to let this question go by without saying one other word; but after what has been said by different gentlemen, I cannot feel it my duty to permit this resolution to pass without one word. I must say that this is, put in what light it may be put, an alteration of the contract. I wish to call the attention of the Convention to the fact that when this contract was made it included a provision that reports of committees should not be paid for as reported matter. Subsequently the Convention directed reports of committees to be furnished as reported matter. That change has been already made by the Convention, and it to some extent would compensate for any deduction of this kind. But the committee in considering this subject in the beginning, at Harrisburg, when it was first referred to them, examined carefully into the whole question and came to the conclusion that the only possible fair method of compensation for reporting was so much per thousand ems of printed matter, and

that that should be the exclusive basis of ascertainment of that matter; that they would not compute the quantity of work done in manuscript; that it was an impracticable method and a very uncertain, doubtful and bad one in every way.

The PRESIDENT. The question is on the resolution. The Clerk will call the names of delegates.

The yeas and nays were taken, with the following result:

Y E A S .

Messrs. Addicks, Alricks, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Beebe, Biddle, Boyd, Buckalew, Campbell, Church, Cerson, Cronmiller, Curtin, Dallas, Gibson, Green, Heverin, Horton, Knight, Lawrence, M'Camant, M'Clean, M'Michael, Metzger, Newlin, Palmer, H. W., Patterson, D. W., Patton, Pugh, Purman, Purviance, John N., Purviance, Sam'l A., Read, John R., Rooke, Ross, Runk, Sharpe, Simpson, Stanton, Stewart, Struthers, Wetherill, J. M., Woodward and Worrell—46.

N A Y S .

Messrs. Ainey, Andrews, Baer, Bannan, Bowman, Broomall, Brown, Bullitt, Carey, Carter, Cochran, Corbett, Darlington, Davis, Dodd, Edwards, Finney, Funck, Gilpin, Guthrie, Hall, Hay, Howard, Hunsicker, Kaine, Landis, Lilly, Littleton, Long, MacConnell, M'Culloch, Mann, Mott, Niles, Patterson, T. H. B., Reynolds, Smith, H. G., Smith, Henry W., Turrell, Van Reed, Wherry, White, David N., and Walker, *President*—48.

So the resolution was agreed to.

ABSENT.—Messrs. Achenbach, Barclay, Bardsley, Barr, Bartholomew, Bigler, Black, Brodhead, Calvin, Cassidy, Clark, Collins, Craig, Curry, Cuyler, De France, Dunning, Elliott, Ellis, Ewing, Fell, Fulton, Hanna, Harvey, Hazzard, Hemphill, Lamberton, Lear, MacVeagh, M'Murray, Mantor, Minor, Mitchell, Palmer, G. W., Parsons, Porter, Reed, Andrew, Russell, Smith, Wm. H., Temple, Wetherill, John Price, White, Harry, White, J. W. F. and Wright—44.

ORDINANCE OF SUBMISSION.

Mr. MANN. I move to go into committee of the whole on the ordinance.

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

The CHAIRMAN. The committee of the whole have had referred to them "an ordinance for submitting the amended Constitution of Pennsylvania to a vote of the electors thereof," the pending question being upon the amendment of the gentleman from Philadelphia, (Mr. Dallas,) upon which the gentleman from the city (Mr. Woodward) is entitled to the floor.

Mr. DALLAS. Will the gentleman yield to me for the purpose of an explanation?

Mr. WOODWARD. If it is not taken out of my time I will.

Mr. DALLAS. Mr. Chairman: Of course I am not going to make any remarks on this amendment. I rise simply for the purpose of perfecting it and modifying it in one or two particulars so that the members of the committee may have before them the amendment in proper form before they speak or act upon it.

At the suggestion of several gentlemen in whose judgment I have the greatest reliance. I propose to modify the amendment in the first line of the second paragraph by inserting after the word "judge" the word "and," and striking out the words "and two return inspectors" in the same line, and adding at the end of the same paragraph the words: "Return inspectors shall be dispensed with."

Then, in completion of that modification, it will be necessary to further modify the amendment, and I accordingly so modify it by striking out in the first line of the paragraph that comes next after that numbered five, the words "one return inspector," and inserting the word "and" after "judge" in the same line. In the third line of the same paragraph I also strike out the words "one return inspector." Those modifications are all for the purpose of dispensing with return inspectors, several gentlemen with whom I have consulted thinking that it will make an unnecessary number of election officers for the commissioners to appoint.

Then at the end of the second line of the fourth paragraph, after the word "divisions," I propose to add, "corrected and revised by said commissioners in any case upon proper evidence submitted to them;" the purpose of that modification being to give to the commissioners the power, if they see proper to exercise it, so far as they can exercise it, to correct the lists upon proper proof being made that it is necessary.

Then in the second paragraph after that which is numbered 5, in the second line,

after the word "officers," I propose to insert "but no person in official position, trust, or employment, whether as principal or subordinate, under the United States or this State, or the said city or any ward thereof, shall be appointed an election officer, clerk or overseer;" and that modification is added for the purpose of preventing public officers from becoming election officers, and is added at the suggestion of those who think that as we by our work interfere with many of those officers, they should not be the depository of the power of conducting this election upon the Constitution. There are other manifest reasons why I think that is also proper, but I will not trouble the Convention with them. I hope delegates will supply themselves with printed copies of the amendment and try to follow the modifications I have made.

Mr. LITTLETON. I should like to ask the gentleman one question. In what manner do we affect the *status* of an officer of the United States by the provisions of this Constitution?

Mr. DALLAS. There are other reasons why I think no officer of the United States should take part in this election.

Mr. WOODWARD. If the gentleman has now got the amendment in a shape to suit himself I am glad of it. I was much pleased with the report of the committee on this subject. I believe that the sum and substance of it was originally presented by a gentleman from this city, (Mr. J. Price Wetherill,) and he not being present, I may say that he has on various occasions helped the Convention to right measures and sound conclusions. I think this proposition to take the election here in Philadelphia out of the hands of the men with whom it now rests and put it in the hands of a body of respectable citizens under this ordinance, is an extremely wise one, and I want to support it pretty much as it was reported. I have no particular objection to the amendment that the gentleman (Mr. Dallas) proposes, but either with or without the amendment, I want this ordinance passed.

But, sir, the reason why I am on the floor is, that the highly respectable and influential delegate from Allegheny county (Mr. J. W. F. White) last night reproduced the idea that this Convention sits under certain acts of Assembly which require us to submit our amendments in accordance with the election law and that

we have no power to pass this ordinance. That argument comes from a source that is entitled to great respect; but I had thought that this scarecrow had been disposed of at Harrisburg last fall. When the question was before the Convention of the power of the Legislature to restrain the Convention, it was voted down by an overwhelming majority. I think there were not more than eighteen votes on the other side, although that side had the leadership of Judge Black, who was able to give very good reasons for the faith that was in him. It was then and there decided that the positive provision of this statute forbidding us to touch the Bill of Rights was void; and why? Because we were a constitutional body, superior to the legislative body, which is one of the co-ordinate departments of the existing government; but the people had resolved to re-lay the foundations of that government, and for that purpose they called us into being.

You all know that in 1871, when the question of Convention or no Convention was submitted to the people of Pennsylvania, they decided by a vote of 328,354 against 70,000 that they would have a Convention, and the vote of the people calling the Convention by that overwhelming majority had no limitations or conditions about it. It was simply a Convention that the people demanded. What is a convention? It is one of those words which happens to have preserved its etymological meaning in all its political connections, and it means that the people resolve that they will *come together* to consider their fundamental law; but as the people were too numerous to come together in actual, personal, incarnate presence, it resulted that they would send certain deputies or delegates to do for them that which they would do for themselves if they were not so large a body as to render it impossible for them to come together.

Now, suppose the people of Pennsylvania had met, would any gentleman, and especially so respectable a gentleman as my friend from Allegheny, say that a subsequent act of Assembly would bind that Convention of sovereigns? You see how ridiculous it would be. After the people resolve that they will come together, the Legislature goes to work and passes certain acts of Assembly. Will any gentleman on this floor say that those subsequent acts of Assembly would limit

er restrain the power of these sovereigns when they had come together? He would be a bold man who would stand up and say that; and yet that is exactly what the argument of the delegate from Allegheny last night meant, if it meant anything. If it does not mean that, it means absolutely nothing. It means that the Legislature, a co-ordinate department of the existing government, may take away from their masters the power which God and nature, and the Declaration of Independence, vested in them—the right and power to come together to remodel their form of government. That is the doctrine.

Why, sir, as I read these acts of Assembly, they declare that the new Constitution shall be submitted to the people at such time and in such manner as this Convention may agree. So that if we are to consider ourselves under this legislation, there is no reason why this ordinance should not be passed. There is nothing, I contend, in the phraseology of the act of Assembly that deprives us of the power to pass an ordinance for the regulation of the manner in which the election upon this Constitution shall be held in the city of Philadelphia. But I put the case on higher grounds. I deny the right of the Legislature to restrain our constitutional powers from the time that the people, in 1871, voted by an almost unanimous vote, that they would place in our hands a change of their government. Our power is derived from the very fountain head, the highest source of supreme authority that is known among men. As the gentleman from Centre (Mr. Curtin) said the other day we were born of the people, and we are here as their very legitimate representatives. Then let no gentleman dream that the Legislature could constitutionally abridge our powers. If they could abridge aught in one respect, they could in all respects. If they could take away from us the Bill of Rights they could take away from us the Judiciary article. They could take away from us the article on Private Corporations or any other article that they chose; and then we, instead of being the representatives of the sovereignty of Pennsylvania, are nothing but the puppets of the Legislature. We do not take our law from the Legislature. They must take their rule of conduct from us. We are superior to them. We represent the people in their original and sovereign ca-

capacity, and they represent the people in their organized constitutional capacity as a co-ordinate department of government. They possess the function of ordinary legislation under the Constitution, but they have no authority to abridge the powers of this Convention.

In the exercise of this clear and unquestioned power which was vindicated at Harrisburg, and approved by an almost unanimous vote it is proposed to pass the ordinance. We have selected with great unanimity, gentlemen on both sides of the House, five respectable men in the city to execute this ordinance; and is there not sir, a real necessity that we should take the elections of this city out of the hands of the men who have manipulated them for years, and place them in the hands of such men as our commissioners? If there is no necessity for that then there is no necessity for the correction of any other evil in the community; for there is no other evil which rises to the magnitude of this, an evil which stuffs the ballot box and palms upon the community as entitled to the emoluments and honors of office men who have never been chosen by the people.

We do not propose that this work of ours shall be submitted to that sort of manipulation in this city; and, for that purpose, we propose to put this election in the hands of private citizens, as this ordinance does. I certainly have no desire to consume time at this stage of our deliberations. It may be that the delegate from Allegheny does not represent any considerable following upon this floor. It may be, and I trust will be, that the vote against his argument will be as decisive as the vote at Harrisburg was. The argument of Judge Black there was drawn from the Rhode Island Dorr case. But Judge Black was shown then, as the gentleman from Allegheny county can be shown now, that the ruling in the Dorr case proceeded upon the ground that it was an unorganized mob that was setting up a Constitution for Rhode Island. Are we an unorganized mob? Have we not been called together with the consent of the Legislature, under an act of Assembly? So far as the fixing of the details is concerned, I agree that we might have come together without it. If the remark the gentleman made yesterday, in connection with another subject, be at all true, our work will be entirely acceptable to the sovereign people of

Pennsylvania, and they are going to adopt it by a very large majority. Therefore we are not an unorganized mob like that of Dorr, in Rhode Island, but we are an orderly, organized body of representatives of the people of Pennsylvania, exercising for the time being their sovereign power to create or make a new fundamental law. That being our position, and the necessities requiring that we should take the election in this city out of the hands of the present election authorities, this ordinance should be voted in at once, and the argument against it was answered at Harrisburg on a former occasion, if I have not succeeded in answering it here now.

Mr. TEMPLE. Mr. Chairman: After the very exhaustive argument of the distinguished delegate, Judge Woodward, I shall say but few words upon the matter now under consideration. I shall not assume to discuss the question of power alluded to by some of the delegates upon this floor. I am of opinion that that question was settled, and properly settled, at our first session at Harrisburg. If there has been any doubt upon that subject in the minds of any delegates, I think such arguments as have been adduced here to-day would go very far towards removing any such impressions. I will venture, however, to suggest that the sovereignty of the people is delegated to this body. It is true, sir, that we are called into existence by the people, and we are to believe that the people meant to do just what they did. They placed in the hands of this body that which belonged to them, namely, the right to change their form of government. It is peaceful revolution, and exercising the right which the people at the very inception of our form of government reserved to themselves. Who will deny this right of the people? Instead of the masses convening for that purpose, they have, under the forms of existing laws, declared that they would have a Convention for that purpose. The moment it was declared by the voters of this Commonwealth that a Convention should be called, all control over the matter ceased so far as the Legislature had power to act. This body has the right, if in its wisdom it thought best, to abolish any or all the branches of the present government.

But sir, it seems to me useless to pursue this branch of the subject further. The right of a Constitutional Convention

to adopt a mode of election such as that contained in this ordinance has never been questioned; upon the other hand we have numerous precedents for it. The Convention of 1838 exercised a similar authority. The Conventions of this State prior to that date, simply declared the result of their labor to be the organic law.

From the debate yesterday, we are led to believe, that but few delegates are opposed to the Constitution, in fact, from the unanimity with which delegates endorsed this instrument, it is fair to suppose that all expect to give it their hearty support. If then, we think this Constitution should be adopted as the organic law of the State, let us either declare it to be such, or if we are to submit it to the people for their approval, let us give them an opportunity to have a fair and honest expression of public sentiment. How then are we to do this? If there is any portion of the State where distrust and well grounded suspicion have arisen as to purity and honesty of the ballot, will we not do all in our power to relieve the election at which we are to submit our work, of any such distrust, either real or imaginary? The people sir, will then be satisfied with the result and will cheerfully acquiesce, but if the people believed that an honest and fair expression of public opinion had not been attained, then they would be restless and uneasy. I ask for fair play. Put the honest people of this Commonwealth in a position to compete with the base combinations which are known to exist in our midst, and you will see that right will prevail, and all rings and combinations will be as the chaff before the wind.

The hordes of political tricksters who now infest places of honor and trust will disappear forever at the first breath of an outraged public opinion. I declare here in my place, and with a full knowledge of what I say, that there has not been an honest election in this county for three years. Our elections, sir, have become the merest farce. It has gone on so long, under cover of an infamous election law, that honest men have ceased to vote at all. I do not charge that any political party is to blame for this. The truth is, that the great majority of both parties are in favor of fair elections, but our hands are tied. It matters not how many votes you poll, unless they are cast in the interest of those who have charge of the count, they go for nothing. There is not a delegate

from this city upon this floor who will deny this. It has been demonstrated to the entire satisfaction of the most zealous partizan. But say the ring masters of both: "What are you going to do about it?" Let this Convention teach these men, who have no political principles whatever, but who use the name of either political party as a cloak, that the power of the people when passing upon their form of government is omnipotent. This, Mr. Chairman, is a matter of the highest importance to the people whose agents we are. This is a question of expediency. Gentlemen from the interior may ask, why we want a different law for this city. There are two reasons which to my mind should be conclusive to every member of this body. The first is that the election laws in this city are unlike those applicable to the remainder of the State. The people here have no say whatever in the selection of their election officers or canvassers. The second is that those who do select our officers and canvassers are of such doubtful character that the Convention have seen proper to abolish the office now held by them in order to get rid of the men. But the delegate from Philadelphia (Mr. Hanna) says that the officers of elections were selected by the board of aldermen before it was known what action the Convention would take in that direction. With this I cannot agree for the reason that long before the selection of the election officers in September last, we had by a decided vote, determined that the office of aldermen should be abolished, and to that decision the Convention has, with what propriety I will not now discuss, adhered. Mr. Chairman, I speak advisedly when I say that the board of aldermen anticipated the action of this Convention, so far as they were interested and appointed election officers to conduct the October election with a determination, if possible, to defeat the new Constitution. It was my privilege to be at the head of one of the political parties during that campaign, and in conjunction with some of the most reliable and upright citizens in this county, endeavored to secure honest and competent persons to conduct our elections, but, sir, we found our labors in vain. The class of men with whom we had to deal turned a deaf ear to all our entreaties, and in many instances selected the very worst element of society to perform that high trust. We appealed to the courts, and found that the board of alder-

men were the sole judges of the qualifications of election officers. I find no fault with the courts, for it has long since been decided that they were powerless. If the board of aldermen were composed of men of character and standing in the community, there would be no necessity for the ordinance, but when we come to consider that that board is composed partially of advertised assassins and notorious scoundrels, who have been for years a terror to this city, and who have escaped the penitentiary themselves because of their proficiency in shielding others, should we not, in the light of all this, adopt such an ordinance as will secure for once some semblance of an honest election. I speak this in no partizan manner. I scorn to treat a subject of so much importance in any such way.

Mr. Chairman, I ask every delegate upon this floor to give this ordinance his hearty support, it can do no harm, it will result in great good, let us not pursue a suicidal policy in first abolishing the office of a class of people whose official conduct has brought so much approbrium upon the office, and then place in their hands the weapons with which to destroy all the forms contained in this instrument.

Mr. ARMSTRONG. Upon the question of expediency I suppose this Convention is not very much divided. The remarks which have been made by the gentleman who has last addressed the Convention (Mr. Temple,) and by others, have no doubt satisfied the Convention that there is a necessity for appointing these commissioners; but there lies behind that an exceedingly important question, as we all know. It is to be observed that the act of 1871, was to authorize a popular vote upon the question of calling a Convention to amend the Constitution of the Commonwealth. The next act provided a mode of electing delegates to that Convention, but the power which is vested by law in this Convention is found in the fourth section of that act.

"Said Convention so elected, assembled and organized, shall have power to propose to the citizens of this Commonwealth for their approval or rejection a new Constitution, or amendments to the present one," &c.

Now, in what position does that place the Convention? I assert that we have the power absolutely, wholly, unalterably, by that act of Assembly, to make a Constitution in our pleasure. There is no

imitation upon our power by reason of any act of Assembly whatever; but we have no right to pass a law, nor could the Legislature delegate to this Convention the power to pass a law. The law-making power cannot be delegated. It is vested by the Constitution in the Legislature and the Executive, and whenever we attempt to go outside of the construction of a Constitution we go beyond our powers and invade the province of two distinct departments of the Government. We cannot therefore pass an ordinance because an ordinance, which is not a part of the Constitution and which undertakes to regulate the mode or manner of election, is to all intents and purposes an election law and as such cannot be passed by this Convention.

If these views be correct then our remedy is in putting the substance of this ordinance into the Schedule, that it may be passed upon by the people, or if it be not wise to insert the entire ordinance in the Schedule, to insert in the Schedule such ratification of this ordinance as will in effect make it a part of the Constitution. As I said, we can do anything in the exercise of our power, so far as our action is concerned, that pertains to the making of a Constitution, but we cannot advance one single step towards the passage of a law.

To some this may seem a distinction without a difference, and that if it be passed as a part of the Schedule it could be passed as an ordinance. I beg gentlemen to remember that the validity of this Constitution will depend upon its ratification, and whether we have the power to announce this Constitution by the inherent power of the Convention is not a question, for it is evident that we do not intend to exercise such power. We intend that the Constitution shall be submitted to the ratification of the people. If then we submit it to their ratification under a mode not recognized by law and under an assumption of authority which is unconstitutional, our action would be void. If it should appear upon investigation, that a sufficient number of votes, or any number of votes, had been cast in pursuance of the mode of election applied to Philadelphia, not under the general election laws, but under the special laws of the State, the Supreme Court of Pennsylvania might throw it entirely out of the count. I do not think it is wise that we should encounter the risks of any such

question of interpretation. Let us put the substance of this ordinance into the Schedule, that it may be voted upon by the people; for, it is to be observed, that the ordinance which is now before us, we propose to put in force, by virtue of the action of this Convention alone, and without submitting it to the people. It is, therefore, not a part of the Constitution in any proper, legal sense of construction. It is eliminated from it, and passed as the independent action of the Convention. But if we submit it as a part of the Constitution, and require it to be voted upon by the people, and it becomes ratified by that action, no power on earth can nullify it.

In summation of these remarks, if no other person moves it, I shall move to put so much of this ordinance into the Schedule as proposes to change any part of the existing election laws of the State; or, what I would rather prefer, that a section shall be drafted which shall embody the distinct ratification of this, and which shall be in the Schedule and voted upon by the people, which will ratify the ordinance which we now pass.

Mr. WOODWARD. I do not think there would be any objection to that.

Mr. ARMSTRONG. My friend says there would be no objection to that. It would be a wise precaution to guard against the possibility of having the Supreme Court decide that the vote which may be cast under a peculiar provision as to these commissioners shall be excluded from the count. We need not encounter that difficulty, whatever it may be.

I close by saying that I shall vote for this ordinance in all its particulars, because I deem it to be in the highest degree expedient and wise; but I shall vote for it in the expectation that so far as it undertakes to change existing election laws, it will either be inserted directly and bodily in the Schedule, or that such a provision will be put in the Schedule as will fully cover it, and ratify it when it comes to be voted upon by the people in convention with the other parts of the Constitution.

Mr. HANNA. Mr. Chairman: I cannot endorse the opening remarks of the distinguished gentleman from Lycoming. (Mr. Armstrong,) in which he said that after hearing the speech of my colleague from the city, (Mr. Temple,) no delegate upon this floor could have any doubt as to the expediency of the Convention so-

lecting commissioners to conduct the election upon the Constitution in this city.

Mr. ARMSTRONG. I beg the gentleman's pardon. I did not so state. I said I presumed that there would be very few who would question the propriety of selecting our commissioners for this city.

Mr. HANNA. I understood the gentleman to say that he was perfectly satisfied after hearing the remarks of my colleague, (Mr. Temple,) that there was no doubt these commissioners should be appointed. I wish to inform the distinguished gentleman from Lycoming and other delegates to this Convention, that the remarks of my colleague are to-day as they have been on other occasions, based upon the strongest and straightest partizanship that any gentleman could display upon this floor. I cannot, sir, as a Philadelphian, remain silent when I hear the fair fame of my native city attacked and its citizens maligned from time to time, not by strangers to the manner born, not by gentlemen from the interior alone but by gentlemen from our own midst. I desire, for one, to protest against it, and to say that such remarks have no foundation whatever in truth and should not be put upon any other grounds than partizan feeling.

Mr. TEMPLE. I should like to ask the gentleman a question.

Mr. HANNA. I do not wish to be interrupted. The gentleman has had his say and I wish to reply to him. We have a question before us directly affecting the city of Philadelphia alone, and I indignantly protest sir, and I have protested upon different occasions before, against being obliged to live under certain forms of government, under certain restrictions, different from those placed upon our fellow-citizens elsewhere throughout the Commonwealth. I say that we are entitled to govern ourselves, to regulate our own local and municipal matters, just as much as the citizens of Allegheny, of Lancaster, of Luzerne, of Washington, or any other county in the Commonwealth. I want the people of Philadelphia to understand that this Convention has, from time to time, sought to tie their hands and bind them hand and foot; and sir, the chains have been fastened upon them, time and time again, by people from their own midst. Why, sir, I need only refer to one single instance where this Convention has forced upon the city of Philadelphia a system of judiciary that

nobody asked for and against the direct vote of twenty out of the twenty-four delegates from this city. That is one instance; and here, again, you propose to take from the hands of the people of Philadelphia the right to conduct their own election, in their own way, and under the act of Assembly authorizing them to hold their general elections. What is it based upon? Is it based upon the complaints of anybody? Have petitions come here from the people of Philadelphia, saying that they cannot manage their own elections, that they have no confidence in their election officers, asking this Convention to take from them and appoint election officers for them? No, sir. But gentlemen representing the minority in the city of Philadelphia come here and say "because we cannot have our own election therefore we want the Convention to take it out of the hands of the majority of the people of Philadelphia!" That is not plain English of it. Because the friends at the election in Philadelphia were so enormous that the Legislature was obliged, in order to give us a fair election to pass a registry law, there was a party who before cheated and stole ballot-boxes from time to time but were prevented from doing it thereafter, therefore the whole system should be done away with to oblige them! Why, sir, you know that less than three years ago the electors of Philadelphia were driven from the polls and assaulted upon the streets of Philadelphia until the majority of Philadelphia obtained control, and to-day every citizen, white and black, votes peacefully, safely and quietly.

Sir, I maintain that this body, as the gentleman from Allegheny argued to-night, is a body composed under the act and bound by the act of Assembly. I would ask this Convention if they are setting themselves up as a body of usurpers. If so it is time for us to know. Are we above all law? If the Convention say so, let the people of the Commonwealth understand it. Sir, I am opposed to it; and if that be treason against the views of the majority of this Convention let it be treason.

The CHAIRMAN. The gentleman's time has expired.

Mr. DARLINGTON. Mr. Chairman, I do not doubt the power of this Convention to take into their own hands the management of the election and to appoint the officers

but its exercise should never be attempted unless it is clear, beyond all question, that it is a necessity which overrules us to compel us to do it.

Now, sir, it is true that a fair election cannot be had in the city of Philadelphia under the control of the existing election officers? If that is so, if in short there can be no election, because an unfair election is no election—if there can be no election, then it is our duty to take the matter into our own hands and appoint officers and conduct the election so as to insure fairness in its exercise.

Now, sir, that brings me to the point of fact, how are we to be assured, how are we to know, whether the election officers now existing in Philadelphia can or cannot perform this duty with propriety and uprightness? How are we to ascertain that fact, because upon that fact must my vote depend? I must be assured of that by indubitable proof, for I know in regard to my own county and district nothing but fairness can take place under the existing election laws, and I am entitled to presume that in all other parts of the State of which no complaint has been made, perfect fairness will exist. There is no complaint, so far as I know, except in the city of Philadelphia. How are we to be made sure that it is a necessity that we should take the control of the election here? Gentlemen on this floor differ. Some gentlemen seem to assume that there are enormous frauds to be practiced here; that they have been practiced heretofore and will be practiced again. I do not know it, I have no knowledge upon that subject. If the gentlemen who represent the city of Philadelphia on this floor are united upon that question of fact and assure us from their knowledge as gentlemen and as members of this Convention, as men of honor, that no fairness can be had at the hands of their present election officers, then I will go with them to appoint others. If, on the other hand, that cannot be made to appear, if they are not united upon that subject, if one-half the honorable delegates upon this floor from that city say that the election can be fair and the others say that it cannot be fair, then the case is not made out and I am bound to vote against any proposition that will take out of the hands of the constituted election officers the power which the law has entrusted to them. Now, I wait for information from the gentlemen from the

city upon this point, and upon that my vote must depend.

Mr. LITTLETON. Mr. Chairman: I do not propose to discuss so much the power of the Convention to appoint these Commissioners of election, (for from what I gather from a careful survey of the Convention it seems that the majority are of opinion that the power exists,) but I rise to say that if this is correct the practical question really to be considered is, which is the best plan, that proposed by the committee or that offered by the gentleman from the city (Mr. Dallas.) If there is to be an appointment of Commissioners, under any plan proposed by this Convention, I am decidedly in favor of the plan suggested by the committee and am just as decidedly opposed to that offered by Mr. Dallas. The vice of his proposition is that it recognizes an apparent difference upon this Constitution of political sentiment. I do not understand that political ideas have anything to do with it in any way whatever. He proposes that members of a certain political party shall be appointed in one place and members of another political party in another place according to the majority of each in the particular locality. I do not see what this Constitution has to do with the politics of the State at all, and I think if we do appoint a board of commissioners, men of honor and integrity, we should leave it to that board to select the subordinates who are to conduct this election, and if there happens to be a precinct in which they cannot find an honest Democrat to preside at the election, let them appoint all Republicans, or if in other localities they cannot find an honest Republican, let them choose Democrats only. I think it should be in the absolute discretion of the men whom we select to manage the election in Philadelphia if we decide upon that plan. As to that I will say that in listening to the remarks made by the gentleman from the city, (Mr. Temple.) I felt that there was a great deal of force in what he said, that it would not be wise or expedient to submit this Constitution to the control of officers appointed by a body, (the board of aldermen,) which we legislate out of existence. If there is any force at all in the proposition offered by the gentleman from Philadelphia, (Mr. Dallas,) that men in official position should not hold any place in the various election divisions, certainly the argument would be much stronger that men holding

an office whose existence is terminated by this Constitution, should not appoint the subordinates who are to conduct the election on the Constitution.

Upon that point I fully agree with the gentleman who has spoken, (Mr. Temple,) and if the Convention decide that they have the power within themselves to appoint commissioners in the mode suggested, I desire to say that as between the two plans I think that of the committee far preferable to the one proposed by the gentleman from Philadelphia (Mr. Dallas.)

The CHAIRMAN. The question is on the amendment of the delegate from Philadelphia (Mr. Dallas.)

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

The CHAIRMAN. The question recurs on the section.

Mr. BUCKALEW. I desire to say that a part of the amendment of the gentleman from Philadelphia I am in favor of, and when we come to second reading I will accept it then.

The CHAIRMAN. The question is on the section.

The section was agreed to, there being on a division yeas fifty-six, noes eight.

The CLERK read the next section, as follows:

IX. In each of the counties of the Commonwealth, (except Philadelphia,) returns of the election shall be made as in the case of an election for Governor, but the return judges in each county shall make out a triplicate county return, and transmit the same, within five days after the election, to the President of this Convention at Harrisburg.

The section was agreed to.

Mr. BUCKALEW. I move to add at the end of this ordinance as a formal conclusion these words:

"Done in Convention this — day of —, A. D. 1873."

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

The amendment was agreed to.

Mr. ARMSTRONG. I move to reconsider the vote by which sections three, four, five and six were adopted, with a view to offer the amendment which I send to the desk and which I trust may be read for information.

The CHAIRMAN. The question is on the motion to reconsider. The proposed amendment will be read for information.

The CLERK read as follows:

"The Secretary of the Commonwealth shall, at least twenty days before the election, furnish to the county commissioners a sufficient quantity of printed blanks, properly prepared, of all necessary tally-lists and returns and circulars of instruction.

"The county commissioners of the several counties shall cause to be prepared printed ballots to the number of the times the number of voters in each county, of both affirmative and negative votes; and the said commissioners shall at least five days before said election cause to be fairly distributed to the several election wards in each election district in their respective counties, the said ballots, blanks, tally-lists and returns and circulars of instruction.

"The ballot shall be in the following form: For all persons giving affirmative votes there shall be printed on the inside of the ticket the words 'new Constitution' and in the inside the words 'the new Constitution.' For all persons giving negative votes there shall be printed on the outside of the ticket the words 'new Constitution' and in the inside the words 'Against the new Constitution.'"

Mr. BUCKALEW. I desire to say that I am in favor of this amendment in every particular except one, and I am in doubt about that. I doubt whether election blanks ought to be circulated by the Secretary of the Commonwealth.

The CHAIRMAN. The gentleman from Columbia will recollect that the question is on the motion to reconsider, which is not debatable.

Mr. MANN. How can we reconsider three votes in one vote? Each section was passed by a separate vote.

The CHAIRMAN. The question is on the reconsideration.

The motion to reconsider was agreed to.

Mr. ARMSTRONG. I move now to substitute what has just been read for these sections. Gentlemen will observe that I have omitted the last paragraph of the first section, for the reason that the election laws now require the expenses to be borne by the several counties.

The CHAIRMAN. The question is on the amendment of the delegate from Columbia coming.

The amendment was agreed to.

The ordinance having been concluded, the committee rose, and the President having resumed the chair, the Chairman, (Mr. Purman,) reported that the committee of the whole had had under consideration the ordinance for submitting the amended Constitution of Pennsylvania to a vote of the qualified electors thereof, and had directed him to report the same with amendments.

The PRESIDENT. The amendments will be read, unless the reading be dispensed with.

Mr. TEMPLE. I move to dispense with the reading of the amendments.

Mr. HARRY WHITE. Let them be read.

The CLERK read the amendments made in committee of the whole.

Mr. BUCKALEW. I move that we proceed to the second reading of the ordinance.

The motion was agreed to.

The PRESIDENT. The ordinance is up on second reading. The first section will be read.

The CLERK read as follows:

"SECTION 1. That the amended Constitution, proposed by this Convention, be submitted to the qualified electors of the Commonwealth for their adoption or rejection, at an election to be held on the third Tuesday of December next; except as hereinafter ordered and directed, the said election shall be held and conducted by the regular election officers in the several election districts throughout the Commonwealth, under all the regulations and provisions of existing laws relating to general elections."

Mr. LITTLETON. To test the sense of the Convention, I move to strike out "the third Tuesday of December next," and insert "the third Tuesday of March," the day of the spring election.

Mr. AINEY. I call for the yeas and nays on that amendment.

Mr. LITTLETON. I second the call.

The question being taken by yeas and nays, resulted as follows:

Y E A S .

Messrs. Ainey, Barclay, Boyd, Calvin, Corson, Curtin, Cuyler, Edwards, Ellis, Fell, Funck, Hanna, Knight, Lawrence, Lear, Littleton, M'Michael, Mann, Patterson, D. W., Purviance, John N., Purviance, Samuel A., Smith, Henry W., Stanton, Struthers and Wetherill, J. M.

N A Y S .

Messrs. Achenbach, Addicks, Alricks, Armstrong, Baer, Bailey, (Huntingdon,) Baker, Bannan, Bardsley, Barr, Beebe, Biddle, Bowman, Brodhead, Broomall, Brown, Buckalew, Bullitt, Carey, Carter, Cassidy, Church, Clark, Cochran, Collins, Cronmiller, Dallas, Darlington, Davis, De France, Ewing, Finney, Fulton, Gibson, Gilpin, Green, Guthrie, Hall, Harvey, Hay, Hazzard, Heverin, Horton, Howard, Hunsicker, Landis, Lilly, Long, MacConnell, M'Camant, M'Clean, M'Culloch, Mantor, Metzger, Minor, Mott, Newlir, Palmer, G. W., Palmer, H. W., Patterson, T. H. B., Patton, Porter, Paghe, Purman, Read, John R., Reed, Andrew, Reynolds, Rooke, Ross, Runk, Sharpe, Simpson Smith, H. G., Smith, Wm. H., Temple, Turrell, Van Reed, Wherry, White, David N., White, Harry, White, J. W. F., Woodward, Worrell, Wright and Walker, *President*—85.

So the amendment was rejected.

ABSENT.—Messrs. Andrews, Baily, (Perry,) Bartholomew, Bigler, Black, Campbell, Corbett, Craig, Curry, Dodd, Dunning, Elliott, Hemphill, Kaine, Lambertson, MacVeagh, M'Murray, Mitchell, Niles, Parsons, Russell, Stewart and Wetherill, John Price—20.

The PRESIDENT. The hour of one having arrived, the Convention now takes a recess until two o'clock P. M.

AFTERNOON SESSION.

The Convention re-assembled at two o'clock P. M.

REPORT OF INVESTIGATING COMMITTEE.

Mr. TEMPLE. I move that we proceed to the consideration of the ordinance of submission.

Mr. BOYD. I desire to submit a report from the special committee.

Mr. TEMPLE. I withdraw my motion for that purpose.

Mr. BOYD. I ask leave to submit a report at this time from the special committee.

Leave was granted.

The CLERK read the report as follows:

"Your committee appointed to investigate charges and imputations of corruption, or the use of improper means to control the action of the members of this body on the article on railroads, made in the *Pittsburg Evening Telegraph* of the 20th and 24th instant, submit the following brief report:

"Supposing the editors would be willing to aid us to discover the improper influences to which their correspondents referred in the private letter quoted, and also in the communication signed, 'Anti-Monopoly,' our first act was to ask them for the name of their correspondent and request their personal attendance.

The telegram on this subject and answer are here inserted:

"PHILADELPHIA, October 27, 1873.
To the Editors *Pittsburg Evening Telegraph*:

Please forward for the use of the Committee of Investigation the name of the person who signed 'Anti-Monopoly' to the communication published in your paper of last Friday, and also the names of the persons who wrote the letters quoted in the editorial of your issue of October 20, 1873. We also request your appearance before the committee. Please come on at once.

JAMES BOYD,
Chairman Committee Constitutional Convention."

RESPONSE.

"To JAMES BOYD, Esq.,
Chairman Committee of Constitutional Convention:

The *Evening Telegraph* declines to give the names of its correspondents, and fails to recognize any authority in your committee to require the presence of any person connected with it. The evidence of the railroad influence in the Convention was sufficiently apparent from its proceedings, and the re-instatement of the original articles, after the attack made by the *Telegraph*, is a sufficient vindication of the propriety and effect of all it published.

H. B. SWOPE,
President *Evening Telegraph Publishing Company*."

By which it is shown they declined to accede to our request and failed to recognize our authority to require the name of their correspondent, or to require their personal attendance.

We cannot now (almost in the last hours of our session) enter into an argument to controvert the position the editors assume in reference to the power of this body in the premises. It is sufficient to know that this avenue to their knowledge of the charges was closed. The Convention must draw their own inferences from this refusal to afford the committee the information requested.

We believe that their correspondent, signing himself "Anti-Monopoly," did gross and inexcusable injustice to the body and its members, and that there has not been a shadow of justification for the charges and insinuations contained in the article.

We have called before us and examined publicly, under oath, the following members of this Convention: (1.) D. N. White; (2.) S. A. Purviance; (3.) John H. Campbell; (4.) T. H. B. Patterse; (5.) Thomas Howard; (6.) Thomas L. Cochran; (7.) John M. Broomall; (8.) R. A. Lambertson; (9.) Edward Knight; (10.) Charles R. Buckles; (11.) Wm. L. Corbett; (12.) Wm. H. Armstrong; (13.) John Bardsley; (14.) Thomas MacConnell; (15.) J. W. F. White; (16.) Matthew Edwards; (17.) Theodore Cuyler; (18.) John H. Walker; (19.) Wm. J. Turrell.

We believed them most familiar with all that was done in committee, and on the floor of the Convention, on this article. This list includes all the members of the select committee (that were present) to whom the original article was committed, and some of the members of the original committee who reported the original article, and also the name of William J. Howard, Esq., connected with the legal department of the Pennsylvania Railroad Company, and whose name was mentioned in the article referred to as being on the floor for an improper purpose.

The testimony of William J. Howard, Esq., and that of Messrs. Cuyler and Lambertson, refutes fully and entirely the charges or intimations in the article published in the *Telegraph* of the 24th; and that of Mr. Walker, President of the body, in connection with that of the gentlemen composing the committee of selection, shows how utterly groundless were the charges of collusion in the appointment of the committee; and we may reasonably infer that all the intimations or insinuations may be considered in the same light. All the witnesses, in the most positive and unequivocal manner, deny any knowledge of improper influences being used, and assert their unhesitating belief that none such was attempted or thought of, and that there was not a shadow of evidence to sustain the charges. No official of the corporations, or any one was ever known to approach any member improperly.

The testimony taken is hereunto appended, and to it we invite attention, including that of two of the reporters for city papers on the floor.

It is gratifying to your committee to know that these gentlemen, some of them among the most able members of the body and honored citizens of the State, bear this testimony to the purity and integrity of the members of this Convention, as it is in full accord with our own.

While it is natural that there should be different opinions on the best method of retaining the powers of railroad companies, and protecting the interests of the people, and at the same time not interfere with the legitimate privileges and future usefulness of these corporations, your committee is fully impressed with the belief that every member was anxious to perform this duty according to his own judgment of what was proper, and with a sincere desire that what was done would be approved by the people, and tend to the further development of the wealth and power of the State.

While your committee does not deny the right of the public press to criticize all the public acts of this body, and would not, (if they could,) restrain it, it is a source of regret that the integrity or honor of this body, or any member thereof, should be assailed by any public journal without even a scintilla of evidence to sustain it.

It is proper to add, that after the testimony in this case was all in, and the report prepared, a letter was received from C. Cathcart Taylor, Esq., who is referred to in the testimony of one of the witnesses, asserting that he knew nothing of the nature of the article referred to in the *Pittsburg Telegraph* and had no information on the subject.

All of which is respectfully submitted.

JAMES BOYD,
G. V. LAWRENCE,
T. STRUTHERS,
M. HALL STANTON,
ANDREW REED,
DAN. S. PORTER,
D. KAINE,

Committee.

October, 31, 1873.

Mr. LAWRENCE. I move that the committee be discharged from the further consideration of the subject.

The motion was agreed to.

REPORTERS' ACCOUNTS.

Mr. J. N. PURVIANCE. The ordinance is now before the Convention, I believe.

The PRESIDENT. A motion was made to proceed to the consideration of it, but was not acted upon. The Chair will put the question on that motion.

The motion was agreed to.

Mr. J. N. PURVIANCE. Mr. President:—

Mr. LAWRENCE. If the gentleman will give way for one moment, I desire to move a reconsideration of the resolution passed to-day by this body in reference to the increase of the pay of the reporters of this Convention. I voted for it in mistake supposing that it was to be referred to the committee for consideration.

Mr. HORTON. I second the motion.

Mr. HUNSICKER. I rise to a point of order. The motion is not in order now.

Mr. T. H. B. PATTERSON. It is a privileged question.

The PRESIDENT. The question is on the reconsideration.

The motion to reconsider was agreed to.

Mr. BUCKALEW. I move to postpone the subject for the present.

Mr. HAY. I hope that will not be done. I want to have an opportunity of speaking on this resolution.

Mr. BUCKALEW. Then I withdraw the motion.

Mr. HAY. Mr. President: I desire to speak against this resolution and to express a hope that neither this resolution nor any other of a similar character will be agreed to by this body.

When the Convention met at Harrisburg it was referred to the Committee on Accounts to inquire into the proper compensation to be paid to the official reporter. They discharged that duty and reported what amount of compensation was a proper amount to be paid. In obedience to the instructions of the Convention they made a contract embodying the result of their deliberations on this subject. That contract was executed by the official reporter, and has since been the standard by which his services were paid. Several accounts have been presented to the committee for his services, and have been acted upon by the committee. The first account which was rendered was for a period covering the time of the session in Philadelphia until the adjournment on the 15th of July. That account, upon a careful, candid, full investigation by the committee, was somewhat reduced, some-

thing over \$4,000; the committee believing that under the contract the reporter was entitled to simply the amount that they found to be due him. The committee prepared a report upon that claim and were prepared to submit it to this body, embodying the results of their deliberations on the subject. Upon consultation with the reporter, the report was not presented; but an opportunity given to him to investigate the matter and ascertain whether the result of their investigations was satisfactory to him. Upon ascertaining the basis of the committee's action, the reporter accepted their settlement of his account, and the committee accordingly reported simply a resolution for the payment to him of the amount due up to that period. Subsequently a statement of his claims for the reporting, embraced in the latter part of the sixth volume and the whole of the seventh, was also considered by the Committee on Accounts and Expenditures. They ascertained what amount was due to him, and that statement was also satisfactory to the reporter. I hold in my hand a letter from the official reporter substantiating my statement which I desire to read.

"CONSTITUTIONAL CONVENTION,
Philadelphia, Oct. 24, 1878. }

Hon. MALCOLM HAY,
Ch'r Com. on Accounts, &c.,

DEAR SIR :—You having submitted to me your statement of my account for the reported matter in the sixth volume of Debates, beginning with the re-assembly of the Convention on September 16th, and up to the end of the seventh volume, (ending with the debate of October 15th,) I have examined the same. The statement is satisfactory to me, (as was the previous settlement up to the summer recess,) on the basis adopted by the Committee on Accounts and Expenditures.

"I do not wish to be understood by this as conceding the entire propriety of the deductions made by the committee; but as I submitted my claim to the committee as the organ of the Convention, and was overruled, I have nothing further to say in that matter. I feel certain that the committee were actuated by every desire to do me justice; and hence I submit to their decision, and on the basis adopted by them. I have no objection to make to the settlement heretofore made, and that now proposed up to the end of the sev-

enth volume, but on the contrary accept the same.

Very truly, yours,

D. F. MURPHY,
Official Reporter."

The Committee on Accounts and Expenditures having reported, having first received from Mr. Murphy the assurance that he would accept their report, supposed the matter was settled. In investigating the proper amount of compensation to the reporter when they were first appointed to this duty in Harrisburg, the Committee on Accounts and Expenditures endeavored to form a basis of compensation which would be fair and just to the State and to the reporter. They believed that this skilled labor should be properly paid for, and they reported a rate of compensation which they believed would accomplish this result. There is no complaint, so far as I understand, from the reporter that this is a very hard bargain. I believe that he and his assistants are fairly compensated, not too much, but enough.

I desire, sir, in opposing the passage of this resolution for paying the official reporter more than the amount which is due under his contract, to make this statement. It has been claimed that speeches delivered in this Convention have been abbreviated by the members after the manuscript has been delivered to them for correction, to the detriment and injury of the reporter. That may be true, but we have no means of ascertaining that fact. At the time the contract was entered into with the reporter, the Committee on Accounts and Expenditures reported that the only real satisfactory way of ascertaining the quantity of matter reported was to estimate it after it was set up in type. We reported that this should be the standard of settlement, refusing to go into the question of the ascertainment of the number of pages in manuscript, or the number of words furnished in manuscript; and the accounts have been made out accordingly.

Further than that, the contract originally provided for excluding from the payment of the reporter all reports of committees and other printed matter. Subsequently the Convention directed that the reports of committees should be paid for as reported matter, and that would be, it seems to me, a full compensation for any claim of the kind which has been made on this question. I hope

that this resolution will now be noted down.

Mr. BUCKALEW. I wrote this resolution and offered it of my own accord and not at the instance of the official reporter. It was my act and if there is anything wrong about it, the fault is to be charged upon me. I know something about reporting. I have been somewhat acquainted with reporting for twenty years, and speaking from that experience I desire to say that I consider our Committee on Accounts and Expenditures to be the strictest organization of this sort that I have ever been acquainted with. Upon a number of points in regard to our reporting they have proved very stringent. The reporter has acquiesced, not desiring to have any controversy with this Committee or with any member of it, or to have any debate in the Convention upon the subject; and a letter has been read here in which with a magnanimity and frankness characteristic of him, he waives all points upon which the committee or its chairman had ruled against him. All that is a perfectly clear and straightforward narrative of what has occurred, and upon that the chairman of the Committee on Accounts and Expenditures plants himself to resist my resolution. Now, this question of compensation to the reporters for actual manuscript, which they have written and furnished and which does not go into the published reports, and for which I ask an allowance, is an entirely distinct and separate question and one upon which the Convention voted righteously and justly this morning, and in exact accordance with the original contract. I think I demonstrated that before.

The contract of the Convention with its official reporter was that one dollar and forty cents per thousand ems should be paid to the reporter. One dollar and forty cents per thousand ems of what? Why of what was produced, of what was furnished to the printer. Nothing can be more clear than that, and yet the gentleman from Allegheny says he cannot state how much was contracted by abbreviations and corrections. The chairman of the Committee on Accounts and Expenditures says he does not know exactly how much was taken off and therefore he will not allow for anything at all! He plants himself distinctly upon that. Because he cannot understand distinctly whether there was five or eight or ten or fifteen per cent. of

contraction, therefore nothing shall be allowed. I say this is a wrong and a gross injustice and a violation of the original contract between the reporter and the Convention. It is a denial of right. It withholds what belongs to the party contracting. My resolution did not ask the Convention to extend any indulgence or pay any gratuity to the reporter, but simply to give just compensation for actual work. It is that a portion of the deductions made against the spirit and letter of this contract shall be allowed.

The gentleman speaks of our committee reports being published in the Debates. This body has not received reports such as are ordinarily made in the deliberative bodies of this kind. Generally long written argumentative reports are submitted, for which the reporters are always justly paid; but here there has been nothing of that sort. We have only had little brief reports, reporting articles and matters of that kind, which have occupied very little space in our printed Debates. Gentlemen need not talk about that. In other bodies committee reports have constituted a large part of the volumes published, and the reporters have always been paid for them.

As to speeches, which have been furnished the reporters in manuscript, very few have been written. At Washington, and at other points, the debates are extended by written speeches of an hour or two hours which are delivered, and the manuscript is handed to the reporter and goes into the printed reports, and the reporter is paid for it as reported matter without objection from any quarter. Then, again, the oral speeches that appear in the Congressional records, are often extended two and three times their original length after the manuscript has been furnished by the reporters, and the reporters are of course paid for those additions. I need not remind gentlemen of the Convention that nothing of this sort has occurred here. I believe that this is the first assembly in this country, of which I have ever had knowledge, where the amount of printed matter produced was so little compared to the length of our sessions and the amount of work done by the reporters. I offered this resolution because I knew that we were getting work done here on principles of economy that do not obtain in such bodies elsewhere, on account of the particular character of our proceedings and the brevity

of our debates. The allowance that my resolution contemplates is for contractions of work produced by the reporters, and it asks only for what is really and honestly due.

The chairman of the Committee on Accounts and Expenditures says, that he has no means of knowing to what extent these contractions have been made. The solution of that difficulty is easy. Let the committee call the official reporter before them and place him under oath, if they chose, and have him sworn as to the proportion of manuscript that has been so contracted. The chairman of the Committee on Accounts and Expenditures says, that because he cannot determine this point, and ascertain accurately the amount of contractions that have been made, therefore nothing shall be paid. He will allow nothing, because he cannot put his rule upon it and cannot apply his measuring tape in order to get the exact size of the deductions. I say this resolution is mine. The reporter has had nothing to do with its presentation. He has even sent to me, since our adjournment this morning, to state that rather than have this debate protracted, and have his name bandied about, he desired that I should withdraw the resolution. Well, as this resolution is mine and not his, I have not complied with that request. I have a right to insist that the resolution shall remain where it is, and if the Convention chooses to vote against it, it is no imputation against the reporter. It will only impeach my judgment and my sense of justice.

Mr. DALLAS. I am very sure that my vote this morning and I believe the same of every other delegate in this body, was influenced by a precise sense of justice on this question. I said nothing upon it then, although I was very clear in my own mind as to how my vote should be cast, and I assume that every other delegate upon the floor was equally clear as to his duty. I rise now only for the purpose of doing justice to two persons. One of those persons, aggregated, is the Committee on Accounts and Expenditures. I believe that this Convention and the State of Pennsylvania owe to this Committee on Accounts and Expenditures, and to its chairman, thanks for the manner in which their duties have been performed in this body. I believe that in everything they have done up to this time I have uniformly voted with that

committee upon all questions which they had in charge, because I believed that they had been actuated simply and purely by the very highest sense of justice. I believe it would be well for all bodies of a similar character to our own, throughout the whole country, if they could always be actuated by as pure motives and by as sincere desires to perform their duty as has been the case with this committee in this Convention.

But this is not a question that comes to us from that Committee on Accounts and Expenditures. This resolution is one for which the gentleman who offered it is alone responsible, and he has properly assumed that responsibility. I think, sir, that this resolution is one calculated to do justice to our reporters in this Convention. There is no doubt of the fact, and if there be a doubt it is easily solved, that more than one, and more than several members of this Convention, have returned to the reporters less manuscript, to a very large extent, than they received from the reporters. The answer to that which I have heard made, publicly and privately, is that they have also received in writing speeches which have been made but which the reporters have not been called upon to report. To meet this objection I simply say that so far as any member has assisted the reporters by writing his own speeches, the reporters are entitled to the benefit of that assistance, and in making that contract which they have made with this Convention, they had a right, actually and reasonably, to rely upon that assistance so far as it has occurred, and I for one am willing to take the experience of the gentleman from Columbia that it has occurred less frequently in this body than in bodies where reporting is generally done.

This whole case to my mind, however, turns upon one point, certain it is that when the reporters, at the solicitation of gentlemen, have given them an opportunity to revise their speeches if they hand them back just as they receive them from the reporters and have them printed in the Debates just as they are so received, whether there had been other speeches written or not, if those remarks so delivered for correction to the members making them were handed back to the reporters in the condition in which they were received, the reporters, under their contract, would have been entitled to full compensation for them. There

can be no doubt about that. No matter what else there may be in this question, if no member had stricken from his speech a single line, the reporters would have been entitled to compensation for it all. Therefore I say that no member of this Convention who has ever stricken a single word from any speech he has made can fairly and honestly vote against this resolution.

I have known, myself, one distinguished member of this body, no longer a delegate here, to twist up page after page of his speeches taken in short-hand, written out again in ordinary long-hand, and presented to him for correction, and throw them in his waste-basket under his feet. His remark was that while he was satisfied that the reporter should dig his grave, he wanted to have something to do with the shaping of it himself. Now, while he had something to do with the shaping of his grave, I think the reporters should be paid for the work they did.

For these reasons and as a simple matter of justice, I shall do as I did before, vote for this resolution.

Mr. BROOMALL. I am opposed to this resolution, because it is a part of a bad practice which has grown up in other bodies, not exactly such as ours. It is part of a similar practice to that which we have been in the habit of deploring. We all know that during the last twenty-four hours of a session of the Legislature, and even of Congress, the public money is voted away with a lavishness that would astonish the constituents of those who so vote, if other matters did not press upon them, in the hurry of business to keep that idea out of their minds.

Now, if there is anything wrong in the contract between the Convention and its reporter, it should have been inquired into long ago. I am glad to hear that the reporter himself is not a party to this claim. I was satisfied that he was not. I desire to do entire justice to that gentleman, in saying that I believe he has performed his duty as well as any other reporter with whom I have been acquainted anywhere. The business has been well done. It has certainly been well paid for, and the reporter himself will not say to the contrary. Therefore, I again repeat that this matter should not have been delayed until now, when we are just at the close of our sessions.

Something has been said about the contraction of speeches by correction. Is

that the experience of the Chair, that speeches contract by corrections? Almost universally, the experience of persons acquainted with this business, is that they expand under the correcting pen. You strike out one word and insert five. I admit the peculiar case alluded to by the gentleman who last spoke (Mr. Dallas,) that of a distinguished delegate-at-large, no longer a member of this body, who was in the habit, sometimes we may suppose, of suppressing his speeches rather than seeing them in print. Whether he was wise in doing that or not, he must be the judge; but that was a single case, and that occurred too to a very limited extent, because he was very little here. There has been speech after speech written for the reporter for which the reporter got paid, without having the labor of reporting it; and more than that, the reports of the committees have all been published in our Debates, and I imagine, and I ask the chairman of the Committee on Accounts and Expenditures if I am not correct, they have all been counted and allowed as if reported. Everything in the Debates has been allowed as reported matter.

Mr. HAY. Petitions and memorials have been excluded, unless they were printed by order of the House.

Mr. BROOMALL. But how about the reports of committees?

Mr. HAY. They have been in every case allowed, in obedience to the order of the House.

Mr. BROOMALL. Exactly so. I am very glad the reporter is not making this demand. Indeed, I am very doubtful whether he really favors it. I am very glad to add my testimony to what the gentleman who preceded me (Mr. Dallas) has said of the correctness and the uprightness and the sincerity and the zeal of the Committee on Accounts and Expenditures. I desire to do that the more, because early in the sessions of this Convention I expressed the opinion that those who are outside of the body, or connected with it, would get ahead of our Committee on Accounts and Expenditures, as they had always done in other cases. I am glad to say that in that I was mistaken, and here and now declare that I have never seen and never known a Committee on Accounts and Expenditures save as much to the body that it served as our Committee on Accounts and Expenditures has done. I think the

chairman of the Committee on Accounts and Expenditures, next to the State Printer, the greatest man in the State. [Laughter.]

Mr. HAY. I desire to clear myself, if necessary, from any possibility of suspicion that there is the slightest unfriendliness on my part toward our reporter. I believe we are blessed with the most competent reporter in the United States. Every one in his profession agrees in saying that. His uniform courtesy, his attention to his business, the faithfulness of his assistants, the accuracy of his work, have commended him to every member of this body. I yield to no one in my admiration of his faithful discharge of duty.

Mr. J. N. PURVIANCE. I desire to make an explanation of the vote which I gave this morning, and of the vote which I will give now upon this resolution. I will vote against this resolution because I will not vote for a reference of any matter to a committee of which I am a member when the subject is one properly to be decided by the body itself. When the resolution of the gentleman from Columbia was offered this morning, there was considerable confusion in the House and I did not notice that the resolution referred the matter to the Committee on Accounts and Expenditures. Hence, under a misapprehension, I voted for it. Therefore it is that I have desired to make this remark to place myself properly upon the record with regard to the vote then cast.

Mr. BOYD. I call for the yeas and nays upon the passage of the resolution. ["Oh no."]

Mr. T. H. B. PATTERSON. Do not let us take up the time by calling the yeas and nays.

Mr. BOYD. Very well.

The resolution was rejected.

ORDINANCE OF SUBMISSION.

On motion of Mr. Temple, the Convention resumed on second reading the consideration of the "ordinances for submitting the amended Constitution of Pennsylvania to a vote of the electors thereof," the question being upon the first section in the following words:

"Be it ordained by the Constitutional Convention of the Commonwealth of Pennsylvania as follows:

I. That the amended Constitution, prepared by this Convention, be submitted to the qualified electors of this Commonwealth for their adoption or rejection, at

an election to be held on the third Tuesday of December next; except as herein after ordered and directed, the said election shall be held and conducted by the regular election officers in the several election districts throughout the Commonwealth, under all the regulations and provisions of existing laws relating to general elections."

Mr. J. N. PURVIANCE. I move to amend, by striking out "the third Tuesday of December," and inserting "Friday the 26th of December." I desire by this amendment, to give as much time as possible to get votes upon this Constitution. The third Tuesday of December falls on the sixteenth day of the month. The Legislature meets on the first Tuesday of January, which is the sixth day of that month. Now, if we hold the election on the third Tuesday of December, we have but twenty-two days before the next meeting of the Legislature, and have not time enough to give sufficient notice to the people of the State of the changes made by our work, and of the new matters proposed by the action of this Convention. Friday the 26th day of December is the day after Christmas. It is a time devoted to leisure, when the people are less employed than at any other season of the year. Therefore, I think a fuller rate could be obtained upon that day, than it will be possible to obtain if the election be held upon the sixteenth of next month.

Then there is another thing to be considered. The Legislature meets on the sixth day of January. This Constitution is to go into effect, if adopted, on the first day of January next, and a difficulty might occur as to the mode in which the members of the Legislature shall be sworn when they meet upon the sixth day of January next. It may be questioned whether they shall take the oath prescribed in the old or that prescribed in the new Constitution. In order to meet that difficulty I propose to change the time when the Constitution, if adopted, shall take effect from the first of January to Thursday, the eighth day of January next, which would be two days after the meeting of the Legislature. The Legislature therefore would be sworn in under the old Constitution, and there would be no difficulty on that score, and no doubt whatever could arise as to the oath which they would take. Now, the Constitution as we have provided, is to

take effect on the first of January. The Legislature organized under it would be required to take the oath which we have prescribed, and that oath perhaps no single member of the body could properly take. We obviate all difficulty in that respect by declaring that the Constitution shall take effect on the eighth day of January, two days after the new Legislature shall be sworn in.

Mr. BUCKALEW. I rise to explain. The twenty-fifth article of the Schedule, gentlemen will observe, provides expressly that the seventh article of this Constitution, relating to oaths of office, shall take effect on the first of January, 1875.

Mr. J. N. PURVIANCE. I understand that perfectly, but I say that we provide that this Constitution shall take effect on the first day of January, and therefore a doubt might arise as to which oath members of the new General Assembly shall be required to take, and under which Constitution they are required to organize. To remove all that doubt, and to postpone the time of the election, so as to enable us to give ten days longer notice of the changes and the reforms made by our work to the electors of the State, I desire the time of the election changed from the third Tuesday of December, the sixteenth, to Friday, the twenty-sixth. When Tuesday, the sixteenth of December, was fixed upon, it was believed that we could adjourn to-day. This Convention, may, however, remain in session until Tuesday or Wednesday or Thursday of next week, and certainly the notice that we then shall be enabled to give will not be sufficient to enable the people throughout the State to properly understand the new Constitution upon which they will be called on to vote. I trust the Convention will adopt my amendment, and that then we shall change the time when the Constitution is to go into effect from the first of January to the eighth.

The PRESIDENT. The question is upon the amendment of the gentleman from Butler.

The amendment was rejected.

The PRESIDENT. The question recurs upon the section.

The section was agreed to.

The PRESIDENT. The second section will be read.

The CLERK read as follows:

II. That at said election the proposed Constitution shall be voted upon as a whole.

The PRESIDENT. The question is upon the section.

Mr. LAMBERTON. I move to amend by adding: "Except as to the article on the Judiciary, which shall be submitted separately."

Mr. CUYLER. I hope the gentleman will add "the article on Railroads and Canals."

Mr. LAMBERTON. Mr. President: To promote the ratification of our whole work by the people, I have offered the amendment for the separate submission of the article on the Judiciary. Notwithstanding our confidence in the result of our labors and our firm conviction that the Constitution which we have framed is much preferable to that under which we are now living, we should remember that our conclusions have been reached after patient examination and protracted discussion and not unfrequently over the objection of a respectable minority. The people can only know the arguments and reasons which controlled the majority of us, by reading the debates, and few will be equal to this undertaking. As objection was urged here to various sections, so will objection be made by those whom we represent. We must expect bitter opposition. Against our amendments will be arrayed every enemy of reform, all who were opposed to the calling of this Convention because opposed to change, and all who will be so much dissatisfied with one or more articles as to reject all, unless they have the opportunity of expressing their dissent to that which is obnoxious.

Now, sir, I would divide that opposition, give the voter the chance to approve at the polls that which his judgment approves and to reject that which he disapproves. That does not seem to be a high order of generalship which combines and aggregates all who are antagonized to the whole and any part of our work. And yet this is precisely what will be done by a submission of the Constitution as an entirety, incurring the hazard of defeat when there is not the least necessity for any risk and when by taking another course success at all points is assured. Submit the judiciary article, and if you please, certain other articles separately, and all will be ratified by the people. In support of our work will be massed

the friends of the Constitution as a whole and these will be reinforced along the line at various points by those who, opposed to one or perhaps two articles, will support all the rest. A separate submission of some of the articles has been expected by press and people and I submit that it would be politic to gratify that expectation.

My amendment applies only to the Judiciary article. On its passage, we know that many of its sections met with stern opposition, some of them were adopted by a bare majority. Voting for or against those contested sections we were the representatives of the opinions of those who sent us here, and as their adoption was opposed here may we not reasonably expect they will be opposed at the polls with the same earnestness? To this article will be opposed every associate judge who seeks a re-election and who finds that after his present term his office ceases; and his influence will be exerted to have his friends vote with him. Again, it is well known that in some parts of the Commonwealth there is a most decided feeling of disapprobation to that section which constitutes a county containing forty thousand of a population into a separate judicial district, because, it is contended, population is not the true basis for such districting, and the State will thereby be divided into too small districts and our judiciary be dwarfed. And it is also as well known, that in other parts of the Commonwealth the same section is regarded as a necessity and will command a heavy favorable vote.

Other sections will readily suggest themselves as containing provisions which will be obnoxious before the people as they are obnoxious to some here. I forbear to enumerate them at this late hour of our session.

Let me be distinctly understood. As I wish to place myself in hearty accord with the large majority of the members of the Convention, I am in favor of the Judiciary article and expect to vote for and support it and the other seventeen articles of the revised Constitution, and my amendment is offered because I am desirous of having our whole work approved and ratified. Submit that work as a whole and I have fears of an untoward result from a combined foe, submit it separately and its ratification is sure. When in 1871, the question as to whether there should be a revision of their Constitution was

submitted to the people, there were 78,000 electors who, content to let well enough alone, voted against a Convention. In this city there was no expression of its opinion on the subject, but it would not be very wide of the mark to estimate the number of those who were against revision at 30,000. We begin then with 100,000 voters who may be counted to vote against our amendments. To these you must add all others who will fancy they find more evil than good in what we have done. With others, I am willing to trust to the intelligence of any disinterested man who will compare our work with that which we were called to revise and I have no fear for the result of such a comparison. But I am not willing to underrate the intelligence of the people by assenting to what has been so bravely asserted here as to the weight which our endorsement will give. Tens of thousands will read and vote, irrespective of any names which may be appended to the instrument.

Then, sir, let us run no risk of having all our time, trouble and care, during the long months that we have been in session, wasted by an adverse vote at the election. Our work may not be perfect, but the good in it far overtops the evil. If there is a fair certainty that the instrument submitted as a whole will be ratified, we can make assurance double sure by a separate submission of the article on the Judiciary. If the prophecies uttered here yesterday, shall be realized, there is no member of the Convention will more heartily rejoice than I, and my joy will be the greater because of the magnitude of my present fears.

Mr. ALRICKS. Mr. President: I must join my colleague (Mr. Lamberton) and enter my protest against the action of the Convention last evening. We have been engaged in a great work, and we have done it well, but it is a great mistake to say that we must submit our Constitution to the people as a unit. I reason from the ordinary affairs of life, and I say that a lawyer who is called upon to draft a last testament for his client, would be a great simpleton if he would tell his client that he must sign it after it was drafted without permitting him to make any corrections.

Now, we are here for the purpose of expressing the will of the people. We are to say how they will dispose of parts of their sovereignty, and when we have

thus undertaken to write out and to frame what is the will of the people, they should have a right to examine every part and parcel of it to say whether they approve of it or not. A portion of their sovereignty is to be given to the Legislature. The people have a perfect right to say whether we have given more power to the Legislature than they choose to entrust to them. A portion of their sovereignty is to be parted out of the judiciary. They certainly should have a right to say whether they are satisfied with the manner in which the judicial districts are to be framed. We have said that certain restrictions shall be put upon the franchises or sovereignty that the people assign to corporations. Now, the people have a right to say whether these restrictions meet their approbation. And so it is when we take up every question upon which we have acted; the people have a right to act upon it too. We are but delegates; and shall the delegates in this Convention assembled say to their constituents, say to the sovereign people, that they shall not pass upon their work piece by piece as we have done it?

I know it has been said here, that to submit the Constitution in parts would embarrass the voter, that he would have difficulty in making up his ticket. Mr. President, we must not deceive ourselves. The voter had intelligence enough to elect the members of this Convention, and he will think, whether he is right or not, that he has intelligence enough to pass upon our work after we have finished it.

Now, I submit to this Convention, that it is our duty, not to take airs upon ourselves, not to suppose that we are above those who have placed us here, not to think thoughtlessly of others, but to allow them to have the opportunity to say how they will be pleased with our work. There were a great many provisions incorporated in this Constitution that did not meet my approbation, but as a whole I believe it is the best Constitution that has been framed for the government of any State of this Union; but I only speak for myself. It will receive my cordial approbation. I believe if you submit it to the people in the right way, that it will be endorsed by the public, and I do not think merely endorsed by thousands, but by hundreds of thousands of votes; but if you offend, if you insult the sovereign people who claim the right

to pass upon the instrument, there is no telling what may be the result. It has been said here, and I have no doubt it has been truly said, that we might frame this Constitution without submitting it to the people; but I apprehend that we want the confirmation of our work by the sovereigns themselves.

Mr. President, I do hope that this Convention will give this matter due consideration, that we shall retrace our steps, and that those articles in relation to which differences of opinion exist will be submitted separately, and I have no question in my own mind with regard to the result. I have no doubt it will be triumphantly endorsed by the public. I hope the Constitution we have framed will secure peace and happiness, truth and judgment for generations yet to come.

Mr. LILLY. I move to amend the amendment by inserting "the article on Railroads and Canals" in the clause relative to separate submission. I think this article ought to be submitted separately.

Mr. DARLINGTON. I rise to a question of order. This amendment is not germane to the amendment which preceded it. It is far better to take a vote on that and then on this.

The PRESIDENT. The Chair does not sustain the point of order.

Mr. LILLY. Every gentleman in this Convention will recollect that during the discussion on the railroad question in committee of the whole, and on second reading, and on third reading, every speaker promised that it should be submitted to a separate vote of the people.

Mr. BIDDLE. No; I said the contrary.

Mr. CURTIN. And I.

Mr. LILLY. The question was asked time and again whether it was to be submitted to a separate vote and there was a universal "aye" all around. The people expect that it shall be so submitted, and I trust it will be for many reasons. All over the Commonwealth of Pennsylvania it is expected that the people shall vote on this article separately. I want to vote for this whole Constitution, I believe it myself to be a great improvement, but I think there will be a very tight squeeze for it with the Railroad article in it, and I know there are hundreds and thousands of men over the Commonwealth who feel in the same way, who will say they cannot vote for it, but if this article is submitted separately you will get their votes for the other articles. I have heard gen-

tlemen here say that it is the most popular article in the Constitution. If that is so, it will be carried at any rate and there need be no hesitation about submitting it separately. In my part of the State I do not believe that it will carry, and I believe it will drive men to vote against the whole instrument who would vote for the rest of it if this article were submitted separately. I think gentlemen ought to stop to think of it a moment before they cast their votes. I ask for the yeas and nays.

The PRESIDENT. The yeas and nays are called for on the amendment to the amendment. Who seconds the call?

Mr. PUGHE. I second the call.

The PRESIDENT. The Clerk will call the names of delegates.

The yeas and nays were taken and were as follows:

YEAS.

Messrs. Addicks, Ainey, Alricks, Bailey, (Huntingdon,) Baker, Barclay, Broomall, Buckalew, Cassidy, Church, Darlington, Davis, Edwards, Ellis, Fulton, Gilpin, Hanna, Hemphill, Knight, Lambertson, Lilly, Mantor, Metzger, Palmer, H. W., Patterson, D. W., Porter, Pughe, Purviance, John N., Read, John R., Reed, Andrew, Simpson, Struthers, Wetherill, J. M., White, Harry, White, J. W. F. and Worrell—36.

NAYS.

Messrs. Achenbach, Andrews, Baer, Baily, (Perry,) Bannan, Barr, Beebe, Bidle, Bigler, Black, Bowman, Boyd, Brown, Calvin, Campbell, Carter, Cochran, Collins, Corbett, Corson, Cronmiller, Curtin, Dallas, De France, Dodd, Elliott, Ewing, Finney, Funck, Gibson, Guthrie, Harvey, Hay, Heverin, Horten, Howard, Hunsicker, Kaine, Landis, Lawrence, Lear, Littleton, Long, MacConnell, M'Camant, M'Clean, M'Murray, Mann, Mott, Newlin, Niles, Palmer, G. W., Parsons, Patterson, T. H. B., Patton, Purviance, Samuel A., Reynolds, Rooke, Ross, Runk, Russell, Sharpe, Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Temple, Turrell, Van Reed, Wherry, White, David N., Woodward, Wright and Walker, *President*—74.

So the amendment to the amendment was rejected.

ABSENT.—Messrs. Armstrong, Bardsley, Bartholomew, Brodhead, Bullitt, Carey, Clark, Craig, Curry, Cuyler, Dun-

ning, Fell, Green, Hall, Hazard, M. Yeagh, M'Culloch, M'Michael, Minn Mitchell, Purman, Smith, H. G., and Wetherill, Jno. Price—23.

Mr. LAMBERTON. I ask now that the amendment I offered be read.

The CLERK. The amendment is to insert after the word "whole," the words "except as to the article on the Judiciary, which shall be submitted separately."

Mr. HARRY WHITE. I move to add "and (2) sections sixteen, seventeen and eighteen of the article on the Legislature; and (3) the article on Legislation."

I sympathize entirely with the remarks of the honorable delegate from Dauphin who first spoke, as well as his colleague. The other day a resolution was introduced here for the appointment of an investigating committee to inquire what means had been used to secure the reconsideration of a certain article, that is, Railroads, predicated on the allegation of bribery or undue influence. One of the main arguments for the passage of the resolution was that there seemed to have been a sudden change in the convictions of members. The same charge can be made with reference to the policy of submitting separately certain articles in connection with the Constitution.

Mr. COCHRAN. I hope the gentleman does not mean to say that that has been produced by corruption.

Mr. HARRY WHITE. No, but the comparison is on account of the sudden change which has occurred in the minds of some gentlemen. Gentlemen who talked to me in my seat and at my boarding house from time to time on the propriety of submitting certain articles separately, now carry us by hue and cry for the submission of the Constitution as a whole. I can account for this upon no other principle than that my friend from Lancaster, the Chairman of the Committee on Schedule, actually murdered it cold blood—

Mr. CARTER. I rise to a question of order.

The PRESIDING OFFICER. (Mr. Broomall in the Chair.) The gentleman will state his point of order.

Mr. CARTER. My point of order is that a resolution in the nature of a rule was adopted last Monday providing that questions on the separate submission of articles should be submitted to the House for decision without debate.

Mr. HARRY WHITE. This does not relate to the question of submission. A majority can do it here.

The PRESIDING OFFICER. The Chair will ascertain what the resolution is.

Mr. HARRY WHITE. Very well. I can only account for it on the ground that my friend from Lancaster, the chairman of the Committee on Schedule, had laid on our desks a long calculation which would have required every man to go the polls with slate and pencil to ascertain how to vote. That so confused gentlemen that half a dozen of them came to my seat and told me—

Mr. HUNSICKER. I rise to a point of order.

The PRESIDING OFFICER. There is a point of order now pending. The gentleman from Indiana will suspend his remarks until it is decided.

Mr. CARTER. My point of order is, that a resolution was adopted on Monday last, providing that on the question of the submission of any article or section separately, there shall be no debate, but the yeas and nays shall be called.

Mr. HEMPHILL. It will be found on page eleven hundred and fifty-nine of the Journal.

The PRESIDENT. It will be read.

The CLERK. On Monday last Mr. Carter offered the following resolution, which was twice read, considered and agreed to, to-wit:

Resolved, That when a motion be made for the submission of any article to a separate vote of the people, the same be decided without debate.

The PRESIDENT. The point of order is sustained.

Mr. CARTER. I desire so say—

Mr. HARRY WHITE. I object to that gentleman discussing the question when he will not let anybody else discuss it. We do not want to be gagged here. Some people have rights as well as others.

The PRESIDENT. The point of order is sustained. The question is on the amendment to the amendment, to add: "and (2) sections sixteen, seventeen and eighteen of the article on the Legislature, and (3) the article on Legislation."

Mr. J. M. BAILEY. I ask for a division of the amendment to the amendment, the first division to end with the words "the Legislature."

The PRESIDENT. A division is called for, and the question is on the first division, to add: "and (2) sections sixteen,

seventeen and eighteen of the article on the Legislature."

Mr. HARRY WHITE. On that question I call for the yeas and nays:

Mr. D. W. PATTERSON. I second the call.

The yeas and nays were taken and resulted as follow:

YEAS.

Messrs. Ainey, Alricks, Bailey, (Huntingdon,) Baker, Beebe, Black, Broomall, Buckalew, Cassidy, Cochran, Cronmiller, Darlington, Edwards, Ewing, Fulton, Funck, Gilpin, Hanna, Heverin, Knight, Lamberton, Lilly, M'Cleau, Mantor, Porter, Pughe, Reed, Andrew, Reynolds, Simpson, Struthers, Wetherill, J. M., White, Harry, and White, J. W. F.—33.

NAYS.

Messrs. Achenbach, Addicks, Andrews, Armstrong, Baer, Bally, (Perry,) Bannan, Barr, Biddle, Bigler, Bowman, Boyd, Brown, Calvin, Campbell, Carter, Church, Collins, Corbett, Corson, Curtin, Dallas, Davis, De France, Dodd, Elliott, Finney, Gibson, Green, Guthrie, Hall, Harvey, Hay, Hemphill, Horton, Howard, Hunsicker, Kaine, Landis, Lear, Littleton, Long, MacConnell, M'Camant, M'Culloch, M'Murray, Mann, Mott, Newlin, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Purviance, John N., Purviance, Sam'l A., Read, John R., Rooke, Ross, Runk, Russell, Sharpe, Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Temple, Turrell, Van Reed, Wherry, White, David N., Worrell, Wright and Walker, *President*—76.

So the first division of the amendment to the amendment was rejected.

ABSENT.—Messrs. Barclay, Bardsley, Bartholomew, Brodhead, Bullitt, Carey, Clark, Craig, Curry, Cuyler, Dunning, Ellis, Fell, Hazzard, Lawrence, MacVeagh, M'Michael, Metzger, Minor, Mitchell, Purman, Smith, H. G., Wetherill, Jno. Price and Woodward—24.

The PRESIDENT. The question recurs on the second division pending for the separate submission of the article on Legislation.

Mr. HARRY WHITE. On that I call for the yeas and nays.

Mr. D. W. PATTERSON. I second the call.

The yeas and nays were taken and resulted as follow :

Y E A S .

Messrs. Ainey, Alricks, Baker, Broomall, Cassidy, Cronmiller, Curry, Cuyler, Edwards, Ewing, Funck, Hanna, Heverin, Knight, Lamberton, Mantor, Purviance, John N., Simpson, Struthers, Wetherill, J. M., White, Harry and White, J. W. F.—22.

N A Y S .

Messrs. Achenbach, Addicks, Andrews, Armstrong, Baer, Bally, (Perry,) Bailey, (Huntingdon,) Bannan, Barr, Beebe, Biddle, Black, Boyd, Brown, Buckalew, Bullitt, Calvin, Campbell, Carter, Church, Cochran, Collins, Corbett, Corson, Curtin, Dallas, Darlington, Davis, De France, Dodd, Elliott, Finney, Fulton, Gibson, Gilpin, Green, Guthrie, Harvey, Hay, Hemphill, Horton, Hunsicker, Kaine, Landis, Lawrence, Lear, Lilly, Littleton, Long, MacConnell, M'Camant, M'Clean, M'Culloch, M'Murray, Mann, Metzger, Mott, Newlin, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Purviance, Sam'l A., Read, John R., Reed, Andrew, Reynolds, Rooke, Ross, Runk, Sharpe, Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Temple, Turrell, Van Reed, Wherry, White, David N., Worrell and Walker, *President*—88.

So the second division of the amendment to the amendment was rejected.

ABSENT.—Messrs. Barclay, Bardsley, Bartholomew, Bigler, Bowman, Brodhead, Carey, Clark, Craig, Dunning, Ellis, Fell, Hall, Hazzard, Howard, MacVeagh, M'Michael, Minor, Mitchell, Russell, Smith, H. G., Wetherill, John Price and Woodward—23.

The PRESIDENT. The question now recurs on the amendment of the delegate from Dauphin (Mr. Lamberton) to add at the end of the second section these words: "Except as to the article upon the Judiciary, which shall be submitted separately."

Mr. LAMBERTON. On that question I call for the yeas and nays.

Mr. FULTON and Mr. CHURCH. I second the call.

The yeas and nays were taken and resulted as follow :

Y E A S .

Messrs. Ainey, Alricks, Bailey, (Huntingdon,) Baker, Barclay, Black, Broom-

all, Cassidy, Church, Cochran, Cronmiller, Curry, Cuyler, Darlington, Ewing, Fulton, Funck, Gilpin, Hanna, Harvey, Hemphill, Heverin, Knight, Lamberton, Landis, Lilly, Long, M'Clean, M'Murray, Mantor, Metzger, Mott, Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Pughe, Purman, Purviance, John N., Reed, Andrew, Reynolds, Rooke, Ross, Simpson, Struthers, Wetherill, J. M., White, David N., White, Harry, White, J. W. F., Woodward and Worrell—51.

N A Y S .

Messrs. Achenbach, Addicks, Andrews, Armstrong, Baer, Bally, (Perry,) Bannan, Barr, Beebe, Biddle, Bigler, Bowman, Boyd, Brown, Buckalew, Bullitt, Calvin, Campbell, Carter, Clark, Corbett, Corson, Dallas, Davis, De France, Dodd, Dunning, Edwards, Elliott, Ellis, Finney, Green, Guthrie, Hall, Hay, Horton, Howard, Hunsicker, Kaine, Lawrence, Lear, Littleton, MacConnell, M'Camant, M'Culloch, Mann, Newlin, Niles, Palmer, G. W., Patton, Purviance, Samuel A., Runk, Russell, Sharpe, Smith, Henry W., Smith, Wm. H., Stanton, Temple, Turrell, Van Reed, Wherry, Wright and Walker, *President*—63.

ABSENT.—Messrs. Bardaley, Bartholomew, Brodhead, Carey, Collins, Craig, Curtin, Fell, Gibson, Hazzard, MacVeagh, M'Michael, Minor, Mitchell, Porter, Read, John R., Smith, H. G., Stewart and Wetherill, Jno. Price—19.

Mr. STRUTHERS. I offer the following amendment:

Mr. D. W. PATTERSON. Was the last amendment carried?

The PRESIDENT. No, sir.

Mr. D. W. PATTERSON. More than forty-five voted in the affirmative.

The PRESIDENT. That does not carry it.

Mr. LAMBERTON. I rise to a point of order. I did not understand the Chair to decide upon the vote either one way or the other. Before the decision is announced, I would ask whether forty-five members having demanded, under a motion to amend, a separate submission of a particular article to the popular vote, it is not only a compliance with the act of Assembly under which this Convention was created, but also with the rule of this House?

Mr. D. W. PATTERSON. Certainly it is.

Mr. LAMBERTON. I moved that the article on the Judiciary be submitted to a separate vote of the people, and on that motion there were fifty-one gentlemen saying it should be done. Now, then, under the act of Assembly which called this Convention into being, and under the rules of this House, can that vote be lost?

Mr. D. W. PATTERSON. It cannot.

Mr. BUCKALEW. I call for the reading of the rule.

Mr. LAMBERTON. So do I.

The PRESIDENT. The Chair will state the question as he understands it. A motion was made to amend the section by excepting the article on the Judiciary in the submission of the Constitution as a whole as provided for in the section.

The vote was taken by yeas and nays and the result stands, fifty-one yeas to sixty-three nays. Certainly that motion to amend is lost.

Mr. LAMBERTON. I ask now for the reading of the rule of this House preparatory to an appeal from that decision of the Chair.

The PRESIDENT. We are not voting under a rule of the House, and the decision that I make upon the amendment is a decision in accordance with the ordinary parliamentary law. The rule, however, will be read as gentlemen have called for it.

The CLERK read as follows:

"Rule 43. That when any article or articles of amendment proposed to the Constitution shall have received three several readings, and been finally passed by the Convention, one-third of all the members of the Convention shall have a right, by motion or resolution in the usual manner, to require the separate and distinct submission to a popular vote of any such article, or amendment, or separable sections proposed and finally passed, as above stated by the Convention."

Mr. LAMBERTON. I beg the pardon of the Chair. The decision of the Chair is undoubtedly right.

The PRESIDENT. As long as I am in this chair, I will decide questions that come before me under parliamentary rulings and under the rules of this House.

Mr. STRUTHERS. I now ask leave to present my amendment.

The PRESIDENT. The gentleman from Warren will forward his amendment.

Mr. AINEY. Before that is done, I desire to ask a question for information. I desire to know how this separate submis-

sion can be accomplished if an ordinance can be framed by the vote of a majority of this Convention which will prevent such separate submission. After we shall have passed upon the ordinance, how can we accomplish the separate submission of an article under this rule?

The PRESIDENT. The Chair has no hesitancy in deciding that when that question is raised by forty-five gentlemen, under the forty-third rule, supporting a resolution or motion for a separate submission, he will decide that they are entitled to it.

Mr. AINEY. What will become of the ordinance then?

The PRESIDENT. The question is upon the amendment of the gentleman from Warren, (Mr. Struthers,) which will be read.

The CLERK read the amendment, which was to add to the section these words:

"Except that the sections or parts of sections relating to cumulative or limited voting shall be submitted separately."

Mr. STRUTHERS. Mr. President: I cannot refrain from once more raising my voice against this anti-Democratic innovation. It strikes a blow at an elementary and cherished principle of our free system of government. We have just re-affirmed in the Bill of Rights the great truths, that "all power is inherent in the people; all free governments are founded on their authority," &c. That "elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage." We are now considering a proposition subversive of these truths, derogatory from the right of free suffrage, the right of the people to elect *all* their representatives and servants, and denying the freedom and equality of elections. I suppose we have the right to consider this or any other proposition. But have we any right to adopt it? In the twenty-sixth section of the Bill of Rights we have recognized and re-enacted the provision found in the first Constitution of the State, which has been re-enacted by each Convention which has revised that instrument since, and been relied upon by the people living under it for ninety-seven years, as the strong shield of their personal rights and liberties. It runs—"To guard against transgression of the high powers which we have delegated, we declare that everything in this article

is excepted out of the general powers of the government, and shall forever remain inviolate." And here we are, so shortly after having paid our respects to it in so profound a manner by re-enacting it, devising means to sap its foundations and defraud the people of its protection. I cannot think we have the moral right thus to stultify ourselves. Suppose we commit the great wrong and adopt this article without amendment, how will it work out in practice? To start with, there are two supreme judges to be added to the bench at one time. The people—the electing majority—are allowed to vote for but one of them. His election certificate will show that he has received the votes of an overwhelming majority of the electors and is declared elected. He will of course be sworn and take his seat. The other, who could not be voted for by those who voted for the first, produces his certificate to the judge, or magistrate, who has been called to administer the oaths. It shows that he has received, it may be the votes of but one-fifth of the number of electors who voted at the election, yet that he also is declared elected. The judge or magistrate, who wishes to do his duty properly, asks for an explanation. "O!" says he, "the explanation is easy. If the electors had been allowed to vote for us both I think I would have had nearly as many as he had. At least I might have hoped for that result in case his friends had not taken into their heads to vote for some one else with him instead of me. But the Constitution makes that all right. It provides, sixteenth section, Judiciary article, that the highest in vote shall be *declared elected*." The judge replies saying I am aware of the provision you mention, I was surprised to find it there, but I find in the second section of the same article that the Supreme Court shall consist of seven judges who shall be *elected* by the qualified electors of the State at large. That admits of but one construction, viz: That each of the judges shall be elected by the qualified electors of the State. Not one by a portion and the other by another portion of the electors. This is the only construction that will harmonize with the principle of free and equal elections, and secure to the citizens the exercise of the full and free right of suffrage. The clause you rely on, in the sixteenth section is in

conflict with this, and with the twenty-fifth section of the Bill of Rights, and I must decline to administer the oath to you. Would not that be the necessary conclusion the judge or magistrate would arrive at? And if a less cautious officer should administer the oath to him and he should reach a seat on the bench, would not a writ of *quo warranto* or other process reach him with disastrous effect when he should attempt to meddle with the interests of suitors?

Mr. President, the danger from the first had been that this Convention would attempt too much in the way of innovation. There are a few points in which revision and amendment are needed and desired by the people. They desire some proper restraints on the Legislature in regard to special legislation which has been carried to an alarming extent in the building up of monopolies and extending unequal privileges to classes and individuals. They desire general laws which will operate equally and uniformly all over the State, and the advantages of which will be open alike to the rich and the poor, the many of small means and the few of larger means. They desire such legislation as will secure honesty in the administration of public affairs and the purity of elections. These and a few other amendments are needed and undoubtedly desired by the people. But the introduction of new elementary principles they have not and do not desire and will be quite sure to reject.

The theory of minority representation upon which gentlemen rest the advocacy of this limited or restricted, as well as the other cumulative or repeating system of voting is unsound in all respects. It assures us that the representative judge, &c., is the servant alone of those who vote for him, belongs to them, whilst the true democratic principle of majority rule recognizes them as the servants of the whole people. A majority of votes determines the choice of men, but when elected the representative legislates for the whole people, and the judge administers the law alike to all, not enquiring how the parties voted. As to political parties, they do not now exist in this country.

At the formation of the national government men of the most eminent talents and staunchest patriotism differed in opinion on essential points of organization, distribution of powers of govern-

ment, &c., and on these grave questions the people took sides with Washington, Hamilton and Adams as leaders of one party, and with Jefferson, Madison, Monroe and others as the leaders of another party—the former known as the Federal and the latter as the Democratic party. These were great national parties. And as the national government sprang from a union of the States by the people of the States, the same parties developed their power in State organizations and characterized partisan contests within the States for many years. It is known to the country and is a matter of history how the Federal party lost ground almost from the beginning and was finally absorbed in the Jackson party of 1828, from which date the people of the country have been a unit on elementary questions of government, save the pampered aristocracy of the South, who grew fat and proud on the labor of the slave, and who would fain sunder the cords of union and establish a government based upon the principle that the successful few have the right to govern, yea to own the less fortunate many. The lessons taught them by the Republican armies in the battles of the rebellion cured them of that delusion, and they have returned for protection to the old fold, and renewed their allegiance to the Constitution and laws of the Union. There exists, therefore, at the present time, no differences of opinion amongst the people of the country respecting the principles, organization, or mode of administration of the government. This is proven by the close conformity of the Constitutions of all the States to that of the United States and to one another. No people on the face of the earth are so thoroughly united in heart and sentiment, in respect to the principles of freedom, justice and equality at the base of their governments, both State and National, as are the people of the United States. Let this fact go forth to the world as true history, and let no political aspirant, or place-seeker in this Convention, or elsewhere, proclaim that there "always has been and always will be two great political parties in this country." Nothing can be further from true. The contests for office which are carried on so actively and earnestly at our annual elections are not based upon differences of opinion on elementary political questions, but on the fitness of men who are

placed before the people as candidates, or on some question of financial policy or supposed short-coming of an opposing candidate, and afford no evidence of difference in political creed. Names are not things.

Why then should we be so anxiously striving to fix upon the State the duty and ungrateful burthen of hunting up, or founding a minority political party and nurturing it upon a third or half of the offices of the State? Whilst we have been enacting so many wise sections to secure equal rights to the people and purify elections, is it deemed necessary to accompany them by a sweetener to induce the corruptionists to swallow our works? Whether so intended or not, it will, if inserted, be hailed by that class as letting them down easy, if not bettering their fortunes. It will submit to them the filling of all places which the people are not permitted to elect. They will have their man or men on the Supreme Bench and all the inferior courts, in the Legislature, (except from single districts,) in the offices of county commissioner, county auditor, school board and all corporation, and other offices where more than one constitute the board, saying nothing of the derogation from the right of the people to choose *all* their representatives, officers and agents. I cannot conceive how a more annoying demoralizing and mischievous arrangement could be made. In Europe political parties exist as a natural consequence of the state of society. An irrepressible conflict between tyranny and oppression on the one hand, and the spirit of freedom and equality on the other, will ever exist there until the enfranchisement of the masses of the people shall place all on a level. And until then, two great parties will necessarily be arranged in the field of habitual conflict, either peacefully or belligerently. Witness the struggle at the present time between the Monarchists and the Republicans of Spain and France. The parties in the former, even now, are measuring strength on the field of blood, whilst the latter, after a short respite, are in danger of being involved again in the same way. In England the Tories have learned to appreciate and fear the growing power of the Liberals, and find it safer to deal with them in a more diplomatic manner. To the demands of the people for an exten-

sion of the suffrage and more general enfranchisement and representation, the Parliament have thought it wise to make moderate concessions from time to time to appease them. But practically their concessions have proven illusory and unsatisfactory. Chamber's, Edinburgh Encyclopedia, defining REPRESENTATION, gives the views of British statesmen as follows: "Most speculative statesmen of the present day consider a representative government of *some* kind the best ideal type of government; but *all* repudiate the idea of an *in-born right* in all citizens to participate, and still more to participate *equally* in the right of choosing the governing body. Several intelligent political writers, while advocating a widely extended suffrage, have proposed a graduation of that suffrage by giving to each individual a number of votes corresponding, as far as practicable, to his *intelligence, property and social position*. This is doubtless the *perfect* ideal of representative government, and the chief question is, by what test can the best approximate estimate of social *value* be arrived at? Two schemes for this purpose have been proposed by Mr. J. S. Mill and Professor Lorimer, respectively. The attention of political writers has also lately been directed to the question of the representation of minorities, who are not at present allowed a hearing in representative assemblies. The most feasible scheme is perhaps that of Mr. Hare, which has the approval of Mr. J. S. Mill, &c."

This they deem safe, because, without extending the right to the people to vote, or choose by election one from their own body to represent them, they would hope to satisfy them by allowing one of the already favored few to come in.

The whole plodding of these schemers is to sustain the aristocracy by whatever deceit or fraud they may practice upon the masses. Yet such are the authorities relied upon in support of their anti-American proposition of minority representation. It is going to the wrong place for Republican lessons or Democratic advice. I hope the amendment will prevail.

The PRESIDENT. The question is upon agreeing to the amendment of the gentleman from Warren.

Mr. STRUTHERS. Upon that I call for the yeas and nays.

Mr. DARLINGTON. I second the call.

The yeas and nays were taken with the following result:

Y E A S .

Messrs. Addicks, Alricks, Andrew Baer, Barclay, Beebe, Boyd, Broomall, Collins, Cuyler, Darlington, Davis, Edwards, Ewing, Funck, Gibson, Hanna Horton, Knight, M'Clean, Mantor, Minor, Niles, Patterson, D. W., Pugh, Purviance, John N., Reynolds, Ross, Simpson, Struthers, Wetherill, J. M., White, Harry, White, J. W. F., and Walker, *President*—34.

N A Y S .

Messrs. Achenbach, Armstrong, Bailly, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Barr, Biddle, Bigler, Black Brown, Buckalew, Bullitt, Calvin, Campbell, Carter, Cassidy, Church, Clark Cochran, Corbett, Cronmiller, Curry, Curtin, Dallas, De France, Dodd, Durning, Elliott, Ellis, Finney, Fulton, Giplin, Green, Guthrie, Hall, Harvey, Hay, Hazzard, Hemphill, Hoyerin, Hunsicker, Kaine, Lamberton, Landis, Lawrence, Lear, Lilly, Littleton, Long, MacConnell, M'Camant, M'Culloch, M'Murray, Mann Mott, Palmer, G. W., Palmer, H. W., Parsons, Patterson, T. H. B., Patton, Purman, Purviance, Samuel A., Read, John R. Reed, Andrew, Runk, Russell, Sharpe, Smith, Henry W., Smith, Wm. H., Stanton, Temple, Turrell, Van Reed, Wherry, White, David N., Woodward Worrell and Wright—79.

So the amendment was rejected.

ABSENT.—Messrs. Ainey, Bardaley, Bartholomew, Bowman, Brodhead, Carey, Corson, Craig, Fell, Howard, MacVeagh, M'Michael, Metzger, Mitchell, Newlin, Porter, Rooke, Smith, H. G., Stewart and Wetherill, John Price—21.

Mr. ARMSTRONG. I rise to a question of privilege.

The PRESIDENT. The gentleman from Lycoming will state his question of privilege.

Mr. ARMSTRONG. I will do so. Some gentlemen around me are under the impression that the Chair has announced that the proper mode of ascertaining whether forty-five members desire a particular article submitted separately, is by passing around a paper and procuring signatures to that effect. I say that this kind of personal solicitation is a breach of the privilege of the House. There is no reason which will justify it, to my

mind. Gentlemen may do as they please, but the personal solicitation of a member, not based upon the public discussions and public decisions of this House, is as much a breach of privilege as though it were done by a stranger.

Mr. DARLINGTON. I rise to a point of order. I want to know what is before the House.

Mr. ARMSTRONG. A question of privilege is before the House.

Mr. LAMBERTON. Let us have that question decided.

Mr. AINEY. Unless there is a chance to reply, I object.

Mr. LAMBERTON. Decidedly we shall have a chance to reply.

Mr. DARLINGTON. There is no question of privilege about it.

Mr. ARMSTRONG. I ask to have a distinct decision of the Chair, whether the Chair did hold the mode of obtaining the assent of members of this body to the separate submission of any article of this Constitution, was by obtaining signatures to a paper circulated in this House.

The PRESIDENT. The gentleman who so understood the Chair to decide did not correctly understand the Chair. I will not decide upon that question until it arises; but the Chair will repeat that he has no hesitation in saying that when the question is properly brought before the Chair by forty-five members voting for a proper resolution, he will hold that the forty-five gentlemen so voting have a right to a separate submission.

Mr. ARMSTRONG. I entirely concur in that opinion of the Chair.

Mr. BROOMALL. It is evident that what we are doing now is simply wasting time. If a majority of more than forty-five vote for one of these amendments, still it comes to nothing. What we should do, would be to offer, when the proper time comes, a resolution under the rule, and get, if it can be done, forty-five men to vote in favor of it upon the yeas and nays, and then demand a separate submission; but this way of getting at it is only wasting time. Still it will not do to pass this section exactly as it stands now, because that would look like cutting off the right of forty-five. I therefore propose to offer a short amendment to get us out of this dilemma, so that we can go on with business, and first I ask the Clerk to read the section as it now stands.

The CLERK read as follows:

"That at said election the proposed Constitution shall be voted upon as a whole."

Mr. LILLY. I rise to a question of privilege.

Mr. BROOMALL. Have I not the floor?

The PRESIDENT. The delegate from Delaware has the floor.

Mr. BROOMALL. I offer the following amendment—

Mr. LILLY. I rise to a point of order that the gentleman from Lycoming rose to a question of privilege—

Mr. ARMSTRONG. And the Chair answered it.

Mr. BIDDLE. Let us hear the amendment.

The PRESIDENT. The amendment will be read.

The CLERK read the amendment of Mr. Broomall as follows:

"Except in those cases, if any, in which one-third of all the members of the Convention demand a separate vote."

Mr. BROOMALL. Now I ask for the reading of the section with the amendment that I have proposed.

The CLERK read as follows:

That at said election the proposed Constitution shall be voted on as a whole, except in those cases, if any, in which one-third of all the members of the Convention demand a separate vote."

The PRESIDENT. The question is upon the amendment of the gentleman from Delaware.

Mr. BUCKALEW. That vote will not be taken upon such an amendment without debate. This section itself is unnecessary and simply repeats what is in the first section. I endeavored last night to have it dropped so that it could not be made a peg upon which to hang all these motions, until we get through with the ordinance. But the gentleman from Lycoming (Mr. Armstrong) objected at that time under some misapprehension of my motive, and consequently we have this section now before us.

The first section of this ordinance says that this Constitution, of course the whole of it, shall be submitted to a vote of the people. The subsequent sections provide for the form of submission. This section adds nothing to the first, and it ought to be voted down when we have an opportunity to vote upon it. Now, however, the gentleman from Delaware (Mr. Broomall) proposes that we shall decide a question of order in the form of an

amendment. I protest against our stopping to debate that question, instead of finishing the remainder of this ordinance. He agrees, himself, that nothing is to come of it in this particular ordinance. If hereafter this Convention order anything to a separate vote, we shall have the necessary arrangements made for so doing; but we ought to decide that question before we put anything in here. How ridiculous will this amendment be if we adopt it, and then afterward do not order anything to a separate vote! This is based upon the assumption that something separate shall be voted upon. When we reach that question, I shall insist upon a direct decision of this House upon the question of the construction of the act of Assembly, which says directly and roundly that this Convention shall have power to submit a new Constitution to the people of Pennsylvania for their adoption or rejection. Point blank it says that, and it says nothing else upon that subject. I want a decision of the House, because in my judgment the Chair, without referring to the law, has accepted statements concerning the law which the law itself will not justify. However we cannot decide that here in this form of amendment. All I insist upon, for the present, is that the amendment of the gentleman from Delaware, which is wholly improper now and involves only what may or what may not be done hereafter, shall be left out and that then we shall vote down this section and go on to complete this ordinance. I agree that this ordinance shall stand on third reading liable to any change we may find it necessary to make, and if any article is ordered to a separate vote, I will be, for one, just as prompt as anybody else to make that arrangement.

The PRESIDENT. The Chair will state how he understands this matter. A section of this ordinance is before the Convention. A motion is made to amend it, and the Chair must receive that motion. His decision, one way or the other, in the opinion of the Chair, does not rule the question raised by the gentleman from Delaware. When that question is raised, the Chair will decide it as he thinks to be right. He is free to say that when properly presented on motion or resolution, he will hold that forty-five gentlemen have the right to a separate vote. He may be mistaken in that; but that will be his decision.

Mr. ARMSTRONG. The Chair will in-

dulge me with a remark. I do not think there is any occasion for any excitement or feeling on this question, nor are we in discord on the construction of the ordinance as to our respective duties. I will concede promptly that whenever a resolution is submitted to the judgment of the House and to the vote of this House, there be forty-five members voting for it, then the question or subject embraced in the resolution must be submitted to a separate vote of the people, so that I think we need have no more discussion on this question at this time. Let us reach it by proper action in the regular order of business.

Mr. AINEY. I desire simply to say that we are now considering the question of submitting the Constitution to the vote of the people, and, under the rule, any member has the right to make a motion to submit any portion of it to a separate vote. Now, sir, it seems to me—

Mr. TEMPLE. I rise to a point of order. I would like to inquire what there is before the House.

The PRESIDENT. The question before the House is the amendment offered by the gentleman from Delaware.

Mr. AINEY. It seems to me, evidently only folly for this Convention to ignore the fact that more than one-third of the members desire the Judiciary Article submitted separately. It is folly to attempt to ignore that fact, and go on and pass an ordinance in opposition to the idea. We may as well recognize the fact now, and recognize the right of forty-five members of this body to call for a separate vote, when we are considering the very subject of how we are to submit this Constitution. Let us recognize that any member has now a right to submit this question, and then if one-third of the Convention says that an article shall be submitted separately, let us say it. Why should we put it off till to-morrow morning, when resolutions may be offered when the very subject is now under consideration? It seems to me that it is entirely right and proper for me now to make a motion as to what shall be submitted separately.

The PRESIDENT. A motion to amend does not take the place of a resolution.

Mr. LILLY. The gentleman from Lycoming rises and complains of a breach of privilege of this House. I do not like him or anybody else to say, to go on the debates of the House, that I have been guilty of

a breach of privilege when it is according to the law that I have proceeded, and when it is the only way I understand it can be got at after the decision of the Chair. If you offer a resolution and submit it to the House, under the decision of the Chair a majority may vote it down. The only way it is possible to get at what is wanted is to get members to sign a paper requiring a separate submission, and when you get forty-five men to sign such a paper, then the separate submission must be made. That right the law gives without a breach of privilege of the House at all. We claim that we have a right to demand a separate submission.

The PRESIDENT. The question before the Convention now is on the amendment of the delegate from Delaware (Mr. Broomall.)

Mr. D. W. PATTERSON. I wish to offer the following amendment to the amendment:

"Resolved, That under rule 43——"

The PRESIDENT. That is not in order now. This is not the time to offer resolutions.

Mr. D. W. PATTERSON. I will just state why I offer it now.

The PRESIDENT. You have no right to offer it.

Mr. D. W. PATTERSON. I ask leave to offer a resolution.

SEVERAL DELEGATES. I object

The PRESIDENT. The delegate from Lancaster asks leave at this point to make a motion. ["No!" "No!"]

Mr. D. W. PATTERSON. I should like to make a statement of the reasons.

The PRESIDENT. The question is on giving leave to make a motion.

The question being put, leave was not granted.

Mr. LAMBERTON. I move the postponement of the ordinance for the present in order to submit a resolution requiring the separate submission of the article on the Judiciary.

On the motion to postpone, the yeas and nays were demanded by Mr. Lambertson and Mr. Boyd, and were as follow, viz:

YEAS.

Messrs. Addicks, Ainey, Alricks, Bailey, (Huntingdon,) Barclay, Broomall, Cassidy, Church, Darlington, Edwards, Ewing, Fulton, Gibson, Gilpin, Hanna, Harvey, Hemphill, Heverin, Howard, Hunsicker, Knight, Lambertson, Lilly, Littleton, M'Clean, Mann, Mantor, Metz-

ger, Minor, Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Reed, Andrew, Reynolds, Rooke, Ross, Simpson, Stewart, Wetherill, J. M., White, Harry, White, J. W. F. and Woodward—43.

NAYS.

Messrs. Achenbach, Andrews, Armstrong, Baer, Baily, (Perry,) Baker, Ban- nan, Barr, Beebe, Biddle, Black, Bowman, Boyd, Brown, Buckalew, Bullitt, Campbell, Clark, Cochran, Collins, Corbett, Corson, Cronmiller, Curry, Curjin, Dallas, Davis, De France, Dodd, Dunning, Elliott, Ellis, Finney, Funck, Green, Guthrie, Hall, Hay, Hazard, Horton, Kaine, Landis, Lawrence, Lear, Long, MacConnell, M'Culloch, Mott, Newlin, Niles, Palmer, G. W., Patton, Purman, Purviance, John N., Purviance, Samuel A., Read, John R., Runk, Sharpe, Smith, H. W., Smith, Wm. H., Struthers, Temple, Turrell, Van Reed, Wherry, White, David N., Worrell and Walker, President—68.

So the motion was not agreed to.

ANSENT.—Messrs. Bardsley, Bartholomew, Bigler, Brodhead, Calvin, Carey, Carter, Craig, Cuyler, Fell, MacVeagh, M'Camant, M'Michael, M'Murray, Mitchell, Porter, Pughe, Russell, Smith, H. G., Stanton, Wetherill, John Price and Wright—22.

The PRESIDENT. The question recurs on the amendment of the delegate from Delaware (Mr. Broomall), which will be read that the Convention may understand it.

The CLERK. It is proposed to add at the end of the section the words, "except in those cases, if any, in which one-third of all the members of the Convention demand a separate vote."

The amendment was rejected, there being on a division yeas forty-two, noes sixty-nine.

Mr. MANN. It seems to me that we could get through with our work sooner if we would accept the vote of forty-five as amending this ordinance. Otherwise we shall have to go back and do it all over again, for if any article is submitted to a separate vote then it is clear we must provide for that separate vote in this ordinance. It is a mere matter of form. I do not wish to impugn the decision, but I want to make a suggestion to delegates that we shall facilitate our business and get through with our work sooner, if by

common consent we accept the fact that a vote of forty-five does amend the ordinance, so that we can go on and perfect it in accordance with that: because the sections that follow this one provide for the manner of the vote. How can we make that provision until we know how the vote is to be taken?

The PRESIDENT. The question is on the second section of the ordinance.

Mr. MANN. Yes, sir; and I am speaking to that.

Mr. BUCKALEW. Let the section be read.

The PRESIDENT. It will be read.

The CLERK read as follows:

"That at said election the proposed Constitution shall be voted upon as a whole."

Mr. MANN. I am speaking on that.

Mr. BUCKALEW. Let us vote that down.

Mr. MANN. I am simply making a suggestion so that we can facilitate our business. ["Vote it down."] We do not want to vote it down; we want to perfect it according to the vote of this Convention. Now forty-five delegates have asked, by a motion, to submit a separate article. I think it would be better to insert that, and then perfect the ordinance in accordance with it.

Mr. GIBSON. Mr. President: I think I was the first delegate upon this floor to express an opinion in favor of submitting this Constitution to the people as a whole, the day before the general discussion took place on the subject. I did so because I saw the ordinances that were laid upon our tables arbitrarily saying that some articles should be submitted in a lump and others separately, and I thought that in going before the people this would result in confusion and defeat. But, sir, I never intended to deny the right of one-third of this Convention to submit an article separately, if they voted to do so by resolution or by amendment to the ordinance. And, sir, in support of that position I beg leave to call attention to the act of Assembly under which we are now acting. I do not say that I would be one of the forty-five delegates who would vote to submit any article separately. My own decided opinions and convictions are in favor of submitting the Constitution as a whole. Now, sir, in the fourth section of that act it is said:

"Said Convention shall have power to propose to the citizens of this Commonwealth for their approval or rejection a

new Constitution, or amendments to the present one, or specific amendments to be voted for separately."

I understand from what the distinguished delegate from Columbia said last night, that those are distinct things. We can either make a new Constitution and submit it to the people, or we can make specific amendments and submit them to the people. So also in section six it says:

"The election to decide for or against the adoption of the new Constitution, or specific amendments, shall be conducted at the general elections of the Commonwealth as now by law conducted."

Here, too, in the sixth section they are distinct. But, sir, I cannot understand how the distinguished delegate from Columbia, a senator in the Legislature of Pennsylvania when this act passed, got rid of the proviso in the fourth section. Its language is unmistakable, and although the Legislature may have intended that we should make a new Constitution and submit it to the people, or specific amendments to the old Constitution and submit them to the people, the language of the proviso in the fourth section cannot be misunderstood. I will read it:

"Provided, That one-third of all the members of the Convention shall have the right to require the separate and distinct submission to a popular vote of any change and amendment proposed by the Convention."

It seems to me that that cannot be misunderstood, that it can have but one meaning. If there is any particular change that is made from the old Constitution, one-third of the delegates of this Convention, in my opinion, have a right to demand its separate submission. I do not think they ought to do it; I do not say that I will vote with any forty-five for doing it, but I do not think that this Convention should deny them that right: it would be unfair and unjust, in my opinion, if that number of delegates vote for a separate submission.

Mr. ELLIS. Mr. President: Upon the very threshold of the deliberations of this body we were met by this very question. The only act of the Legislature which is binding upon this Convention was passed before this act to which the gentleman from York refers. The only act that is binding on this Convention is the act that was passed before the people of this State voted whether a Convention should meet

or not. We, after solemn discussion and by solemn vote cast at Harrisburg, said that anything that the Legislature put in the first act, the act that the people voted upon, was binding on us; but when the people saw a Convention should be held, and held without the trammels, restrictions regulations that were put in the act of 1872, the Legislature had not a particle of power to pass the act to which the gentleman from York refers; and if I mistake not, stood side by side with the gentleman from York when this question was thrown upon the Convention by the delegate from Indiana, (Mr. Clark,) who held that we were limited in our powers by this very act. Then the gentleman from York said that this act did not limit our powers.

Sir, the entire power of the Legislature was exhausted when it defined the mode by which this Convention should meet and the number of its delegates. It had no power whatever on this Convention to say in what manner it should submit its propositions more than it had the power to say what propositions this Convention should submit to the people. Now, sir, this thing can be met in the very heart of it. We met it at Harrisburg, and it should be met here on the principle, that we are not trammled by these restrictions thrown in our face the very hour of adjournment. At the very beginning of our meeting, we said this act does not bind us in more important particulars than this. The Legislature said to us: "You shall not touch the Bill of Rights." We said to the Legislature and to ourselves and the people: "If we want to touch it, we have the power from the people to touch it," and when the Legislature say to us, "you shall not touch the Bill of Rights, they then say in the most solemn manner, you shall not do the most solemn act." And now we are to reverse ourselves, and say that in the mere matter and mode of submitting this Constitution, the Legislature shall control. We are absurd, we are reversing ourselves, we are inconsistent, and we are reflecting upon the dignity that we ought to represent here, the dignity and power of the people of the State. We are not controlled by any subsequent acts of the Legislature. Had they put this in the first act, as I stated at Harrisburg, it would be binding on us, because that was the act of the people; but the mere act of the Legislature has no bind-

ing force upon us. This is plain as sun light at day-time, and it was so when we discussed it upon a higher plane; it then was solemnly determined by this Convention, and I think we ought not now to be befogged upon this question.

The PRESIDENT. The hour of five having arrived the Convention takes a recess until seven o'clock P. M.

EVENING SESSION.

The Convention re-assembled at seven o'clock P. M.

ORDINANCE OF SUBMISSION.

The Convention resumed the consideration on second reading of the "ordinance submitting the amended Constitution of Pennsylvania to a vote of the electors thereof."

The PRESIDENT. The question is on the adoption of the second section.

Mr. BUCKALEW. That section is now utterly useless, and I hope it will be voted down.

Mr. BOWMAN. Let the section be read.

The CLERK read as follows:

"II. That at said election the proposed Constitution shall be voted upon as a whole."

Mr. LAMBERTON. I call for the yeas and nays.

Mr. STANTON. I second the call.

Mr. BUCKALEW. The question does not seem to be understood. The question is, whether the Committee on Revision have got to strike out this section or the first section, because they are the same thing exactly.

Mr. BOWMAN. The gentleman from Columbia states that the section under consideration and the first section are precisely the same as to this question. Now, if that is the fact, it is unnecessary for us to vote this section in. That the Convention may understand the question and vote intelligently, I ask that the first section be read.

The CLERK read as follows:

"I. That the amended Constitution prepared by this Convention be submitted to the qualified electors of the Commonwealth for their adoption or rejection at an election to be held on the third Tuesday of December next; except as hereafter ordered and directed, the said election shall be held and conducted by the regular election officers in the several election districts throughout the Commonwealth, under all the regulations and provisions

of existing laws relating to general elections."

Mr. BUCKALEW. Now, read the second section.

The CLERK read as follows:

"II. That at said election the proposed Constitution shall be voted on as a whole."

The CLERK proceeded to call the roll and several delegates answered to their names.

Mr. PURMAN. I apprehend the Convention will be misunderstood by their vote on this section. The gentleman from Columbia says it is clearly expressed in the first section. Some members of the Convention do not think so. If that is so, the Committee on Revision will strike it out. That the votes of the Convention be not misapprehended, I suggest that the roll be called again from the start. ["No." "No."]

The PRESIDENT. The Clerk will proceed with the yeas and nays.

The roll-call having been completed, the result was announced as follows:

Y E A S .

Messrs. Andrews, Armstrong, Baily, (Perry,) Barr, Bigler, Bowman, Boyd, Brown, Calvin, Campbell, Carter, Cochran, Corson, Curtin, Dallas, Davis, De France, Elliott, Ellis, Finney, Guthrie, Hay, Hazzard, Howard, Lawrence, Lear, Long, M'Camant, M'Culloch, Newlin, Niles, Patterson, T. H. B., Purman, Runk, Russell, Sharpe, Smith, H. G., Smith, Wm. H., Stewart, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price, Wherry, White, David N. and Walker, *President*—46.

N A Y S .

Messrs. Achenbach, Addicks, Ainey, Alricks, Baer, Bailey, (Huntingdon,) Baker, Bannan, Barclay, Beebe, Black, Buckalew, Church, Clark, Curry, Darlington, Edwards, Ewing, Funok, Gibson, Gilpin, Hall, Harvey, Hemphill, Horton, Kaine, Knight, Lamberton, Lilly, Littleton, M'Clean, Mantor, Metzger, Minor, Mott, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patton, Porter, Pughe, Purviance, Jno. N., Reed, Andrew, Reynolds, Rooke, Ross, Simpson, Stanton, Struthers, Temple, White, Harry, Woodward and Worrell—54.

So the section was rejected.

ABSENT—Messrs. Bardsley, Bartholomew, Biddle, Brodhead, Broomall, Bullitt, Carey, Cassidy, Collins, Corbett, Craig, Cronmiller, Cuyler, Dodd, Dun-

ning, Fell, Fulton, Green, Hanna, Herin, Hunsicker, Landis, MacCone, MacVeagh, M'Michael, M'Murray, Mac Mitchell, Purviance, Samuel A., Ba John R., Smith, Henry W., White, J. F. and Wright—33.

Mr. LAMBERTON. I offer to amend insert as section second the following:

"The article on the Judiciary shall be submitted separately and distinctly to popular vote."

Mr. WOODWARD. I do not rise to discuss this question but rather to appeal to my friend from Dauphin not to press this vexatious question any more, when this House has already decided that question by a very large vote.

Mr. HARRY WHITE. I rise to a point of order.

Mr. WOODWARD. What is your point of order, sir?

Mr. HARRY WHITE. My point of order is that it has been decided by the Convention in my case that if there was a resolution introduced for a separate submission, it should be decided without discussion.

Mr. WOODWARD. Is that a point of order on me?

Mr. HARRY WHITE. Yes, sir.

Mr. WOODWARD. In what am I out of order?

Mr. HARRY WHITE. I have just stated.

Mr. WOODWARD. Well, I did not hear you.

The PRESIDENT. The point of order is that no question of this character can be discussed.

Mr. WOODWARD. I said I did not rise to discuss it. I rose to appeal to the gentleman from Dauphin, my friend, not to detain this body by a presentation of any such resolution. I have voted with him uniformly all the way through, and I am willing to vote with him now if he insists upon offering his resolution. But the Chair and the gentleman from Columbia (Mr. Buckalew) differ as to the construction of the act of Assembly, and if we insist upon presenting this resolution at this time it may re-open our whole work and prevent our adjournment for weeks. Instead of which, if we let the majority of this body do as they have a right to do, we can complete our labors and be ready for adjournment in a very few hours.

Mr. HARRY WHITE. I insist on my point of order. The gentleman from Philadelphia is not in order.

Mr. WOODWARD. If the gentleman from Indiana thinks I am not in order let him state wherein I am out of order.

The PRESIDENT. What is the point of order that the gentleman from Indiana raises?

Mr. HARRY WHITE. My point of order is that inasmuch as there was a resolution offered and carried, by which it was decided that questions of this character should be submitted without debate, the delegate from Philadelphia has no right to debate this question.

Mr. WOODWARD. I am not debating it.

The PRESIDENT. The point of order is sustained.

Mr. H. W. PALMER. Then what is the question before the House?

The PRESIDENT. It is upon the amendment of the gentleman from Dauphin.

Mr. H. W. PALMER. Upon that amendment I call for the yeas and nays.

Mr. TEMPLE. I second the call.

Mr. ARMSTRONG. I want to understand this of the Chair in order that there shall be no misunderstanding of the subject in the minds of the Convention. If I understood correctly the action of the Convention this morning, it did not relate to the question now before the House. The House then decided that a resolution to submit an article to a separate vote of the people must be decided without debate. This is a point of order raised by the gentleman from Indiana on a motion to amend a proposed section of the article. I cannot see the reason why this should not be debatable.

Mr. HARRY WHITE. I call for a decision on my point of order.

The PRESIDENT. It has been decided.

Mr. CALVIN. I ask for the reading of the rule.

Mr. HARRY WHITE. I merely remind the delegates that it was decided on me to-day on the same kind of a proposition.

The PRESIDENT. The Chair has already decided that the point of order is well taken.

Mr. BUCKALEW. I rise to a point of order.

Mr. TEMPLE. I think every delegate on this floor has an equal interest in this question and I insist that this point of order is not well taken.

SEVERAL DELEGATES. I object.

The PRESIDENT. That may be the opinion of the gentleman from Philadelphia, but the Chair cannot help it.

Mr. TEMPLE. The Chair, I submit ought not to have so decided.

Mr. HARRY WHITE. I rise to a question of order that no gentleman can discuss a question when the point of order has been decided.

Mr. TEMPLE. I ask the Chair to withdraw the decision.

Mr. CALVIN. I have requested that the rule referred to be read.

The PRESIDENT. As soon as the Chair can get time to say a word himself he will have the resolution read. The Clerk will read the resolution called for by the gentleman from Blair.

The CLERK read the following resolution heretofore adopted:

"Resolved, That when a motion is made for the submission of any article to a separate vote of the people, the same shall be decided without debate."

The PRESIDENT. The question is upon the amendment of the gentleman from Dauphin.

Mr. ARMSTRONG. Mr. President:—

The PRESIDENT. The gentleman from Lycoming.

Mr. HARRY WHITE. Question! Question! Question! Question! Question! Question!

Mr. ARMSTRONG. When the delegate from Indiana has relieved his lungs with the cry of "question" I will address myself to the Chair.

Mr. HARRY WHITE. I rise to a point of order.

Mr. ARMSTRONG. I rise to a point of order.

Mr. HARRY WHITE. The gentleman from Lycoming cannot discuss this question.

Mr. ARMSTRONG. I did not discuss it. I addressed the Chair after having been recognized by him.

The PRESIDENT. The Chair recognized the gentleman from Lycoming and the gentleman from Lycoming has a right to address the Chair.

Mr. ARMSTRONG. Of course, sir, I did not think it necessary to instruct the gentleman from Indiana on so plain a point as that.

Mr. HARRY WHITE. I do not need any instruction from the delegate from Lycoming.

Mr. ARMSTRONG. You seem to need such instruction very frequently.

The PRESIDENT. Did the gentleman from Lycoming raise a point of order?

Mr. ARMSTRONG. I desire to raise a point of order when I can have an opportunity to do so.

The PRESIDENT. You shall have every opportunity. What is your point of order?

Mr. ARMSTRONG. I raise the point of order that this motion of the delegate from Dauphin (Mr. Lamberton) is not a resolution. It is an amendment to a pending article.

Mr. TEMPLE. I desire to say simply this—

Mr. HARRY WHITE. I appeal to the Chair for order. The Chair has decided that the point of order I raised was well taken, and I demand that it shall be enforced.

Mr. NILES. The gentleman from Indiana makes more noise than anybody else. [Laughter.]

The PRESIDENT. The Chair cannot close the mouths of gentlemen when they will talk.

Mr. HARRY WHITE. I appeal to the Chair to do so.

The PRESIDENT. The Chair has decided the point of order to be well taken and if his decision is wrong it should be reversed.

Mr. TEMPLE. I rise to a point of order.

The PRESIDENT. You will take your seat. [Laughter.]

Mr. TEMPLE. I will do so of course with due deference to the Chair, but I desire to state a point of order.

The PRESIDENT. Until order is restored the Chair cannot receive any business. The gentleman from Philadelphia desires to state a point of order. What is the point?

Mr. TEMPLE. I submit that the case now before the Convention is in no way analogous to the case named by the gentleman from Indiana; that there the question was raised under resolution and that is not a resolution but an amendment, and therefore the rule of construction which applied to a resolution cannot apply to an amendment.

Mr. BUCKALEW. I submit, as a point of order, that this same proposition, identical in substance, was moved to-day and voted upon by this House, and that at the same stage of this article it cannot be offered again.

The PRESIDENT. The question is upon the amendment of the gentleman from Dauphin. Upon that question the yeas

and nays have been called for and the Clerk will proceed with the roll.

Mr. TEMPLE. The point of order has not been disposed of.

The PRESIDENT. Which point of order do you refer to?

Mr. TEMPLE. I rose to a point of order that the motion of the gentleman from Dauphin was not a resolution, but was an amendment to a section of a pending article, and therefore the rule that applied to a resolution should not be applied to the amendment.

Mr. LAMBERTON. My proposition was offered as a distinct amendment to section two. Section two having been voted down, I offered my amendment as a distinct proposition.

Mr. BUCKALEW. I have made a point of order and submitted it to the Chair and I ask for a distinct decision upon that point of order, whether the same proposition can be offered at the same stage of the article. I object to it here and now.

The PRESIDENT. The Chair is of the same opinion with the gentleman from Columbia. The point of order is well taken. The only difference the Chair sees is that it was offered before as an amendment and here it seems to be offered as a distinct section. It is the same. I suppose, substantially.

Mr. BUCKALEW. It was second reading then and it is second reading now. If this thing goes on in this way, we shall never get through.

Mr. HARRY WHITE. I object to gentlemen discussing points of order.

The PRESIDENT. The Clerk will state the proposition which was submitted to-day, to which the gentleman from Columbia refers.

The CLERK. The proposition submitted to-day was to add to the second section an amendment, as follows:

"Except as to the article on the Judiciary, which shall be submitted separately."

The PRESIDENT. The Chair sustains the point of order. The amendment of the gentleman from Dauphin is not in order. The second section has been voted down and the question is now upon the third section. The third section will be read.

The CLERK read as follows:

"III. The Secretary of the Commonwealth shall, at least twenty days before the said election, furnish to the county

commissioners of each county, a sufficient quantity of printed blanks, properly prepared, of all necessary tally-lists and returns, and circulars of instructions.

"The county commissioners of the several counties shall cause to be prepared printed ballots to the number of three times the number of voters in each county—of both affirmative and negative votes; and the said commissioners shall, at least five days before said election, cause to be fairly distributed to the several election wards in each election district, in their respective counties, the said ballots, blanks, tally-lists and returns, and circulars of instructions.

"The ballots shall be in the following form: For all persons giving affirmative votes there shall be printed on the outside of the ticket the words 'New Constitution,' and in the inside the words 'For the New Constitution.' For all persons giving negative votes there shall be printed on the outside of the ticket the words 'New Constitution,' and in the inside the words 'Against the New Constitution.'"

Mr. J. M. BAILEY. I would like to suggest to the mover of this substitute section a couple of amendments which are merely matters of taste I suppose. I would suggest to him that he say:

"To the number of at least three times."

And I would make a further suggestion:

"For all persons giving affirmative votes there shall be printed or written on the outside, and printed or written on the inside."

So that the section shall not require the tickets to be printed.

Mr. ARMSTRONG. I am willing to accept that modification. I presume that the modification should come in the third paragraph, and that it should read:

"The ballots shall be printed or written and be in the following form."

Mr. J. M. BAILEY. That would be inconsistent with the preceding paragraph.

Mr. ARMSTRONG. I do not think it would. I think it would fully cover the case.

Mr. J. M. BAILEY. I desire the amendment made in the first line of the third paragraph.

"The ballots shall be printed or written in the following form."

Then I desire to strike out the word "printed" in the second line of the same paragraph, and also the word "printed" in the third line of the same.

The PRESIDENT. The Clerk will read the paragraph as the gentleman from Huntingdon desires it amended and as the author of the substitute for the section in the original ordinance as reported from the Committee on Suffrage Election and Representation proposes to accept it.

The CLERK read as follows:

"The ballots shall be printed or written in the following form: For all persons giving affirmative votes there shall be on the outside of the tickets the words 'New Constitution;' in the inside the words 'For the new Constitution.' For all persons giving negative votes there shall be on the outside of the tickets the words 'New Constitution;' in the inside the words 'Against the new Constitution.'"

The PRESIDENT. The amendment is before the Convention.

Mr. BIDDLE. I move this amendment to the amendment which will save two lines, and I read the paragraph as I desire it to be amended:

"The ballots shall be printed or written in the following form: On the outside the words 'New Constitution' in the inside for all persons giving affirmative votes the words 'For the new Constitution, and for all persons giving negative votes the words 'Against the new Constitution.'"

There is no use of repeating the words "on the outside" twice.

Mr. J. M. BAILEY. I accept that amendment.

Mr. ARMSTRONG. As the amendment now stands I think it is all right. It shortens the section.

Mr. BUCKALEW. The amendment of the gentleman from Lycoming, which is now the section as it stands before us, is generally a great improvement on the ordinance as it was originally presented, with the exception of a single instance, which I do not feel disposed to accept. He provides that the Secretary of the Commonwealth shall cause all the blank forms for the whole State to be printed. I understand they are to be sent to every county and I think that will be quite unnecessary. At the county commissioners' offices throughout the State they have stocks of election blanks on hand. They have papers headed "Lists of Voters," which are used to write down the names of persons who vote. There are papers headed "Returns," on which the returns may be made out; and they have another paper called a "Tally-Paper," with a

heading. If there is to be but one vote on the Constitution, or two votes, there will be nothing complicated about these papers. They are already in most of the commissioners' offices and it will be convenient for the county commissioners to furnish them for the election districts. It therefore seems to me to be unnecessary to have new blanks printed at Harrisburg.

I think the Secretary of the Commonwealth might very properly send them instructions. Of most of the gentleman's amendments I very much approve; but the fourth section of the report of the Committee on Suffrage, Election and Representation, it seems to me, is preferable to this portion of his amendment which provides for the duties of the Secretary of the Commonwealth. If gentlemen will turn to that section they will see what I mean. The fourth section of the report of the Committee on Suffrage, Election and Representation provides:

"The county commissioners of the several counties shall immediately after the receipt of the said circular of instructions, cause all blanks, tally-lists, and forms of returns to be properly prepared and printed, and at least five days before said election, cause to be fairly distributed to the several election boards in each election district in their respective counties, the ballots, blanks, tally-lists and returns, hereinbefore provided for."

If the gentleman from Lycoming will accept that as a substitute for the first division of his amendment, I am satisfied with the rest of it.

The PRESIDENT. The question is upon the amendment of the gentleman from Huntingdon (Mr. J. M. Bailey) as modified.

The amendment was agreed to.

The PRESIDENT. The question recurs upon the section as amended.

Mr. WHERRY. Is there not an amendment pending?

The PRESIDENT. There is no amendment pending.

Mr. WHERRY. I then move to amend the first paragraph by striking out all after the word "county" in the third line to and including the word "and" in the second line, so that the paragraph shall read:

"The Secretary of the Commonwealth shall, at least, twenty days before the said election furnish to the county commissioners of each county circulars of instructions."

Then in the second paragraph, I move to add the word "and" to the fourth line.

Mr. ARMSTRONG. Please read the section as you propose to amend it.

Mr. WHERRY. With pleasure.

"The Secretary of the Commonwealth shall, at least twenty days before the said election, furnish to the county commissioners of each county circulars of instructions."

"The county commissioners of the several counties shall cause to be prepared printed ballots to the number of three times the number of voters in each county of both affirmative and negative votes; and the said commissioners shall, at least five days before said election, cause to be fairly distributed to the several election wards in each election district in their respective counties, the said ballots and blanks, tally-lists and returns and circulars of instructions."

The purpose of this amendment is simply to take the printing of these blanks and tally-lists from the Secretary of the Commonwealth and give it to the county commissioners. That is the long and short of it.

Mr. ARMSTRONG. That has been the long established practice, and I make no objection.

Mr. WHERRY. It still leaves it the duty of the Secretary of the Commonwealth to furnish instructions to the county commissioners.

Mr. ARMSTRONG. I think it would be wise to leave a part of it so that it would read "a sufficient quantity of properly prepared circulars of instruction."

Mr. WHERRY. I accept that as a modification.

The PRESIDENT. The amendment is before the Convention.

Mr. HOWARD. This change may be all right but I do not like it. I am afraid that if this duty is imposed on our county commissioners and they fail in the discharge of it we shall not be able to ascertain that fact and correct it. If the obligation be imposed upon the Secretary of the Commonwealth, I have no doubt he would discharge his duty, and if he did not, the fact would be apparent and action could be taken in relation thereto. This matter relates to the entire Commonwealth, and it seems to me it should be imposed upon the Secretary of State. If he should fail in the discharge of his duty, then as I have said, the friends of this Constitution could readily ascertain

that fact. I do not think this amendment is good. I think it is far better to allow the section to remain as it is. Let us vote down the amendment.

Mr. J. M. BAILEY. Would an amendment be now in order?

The PRESIDENT. An amendment to the amendment would be in order.

Mr. J. M. BAILEY. Is it to the first or second paragraph?

Mr. ARMSTRONG. The former amendment, I understood, was adopted by unanimous consent.

The PRESIDENT. The Chair did not understand so. The question is on the amendment of the gentleman from Cumberland (Mr. Wherry.)

The amendment was agreed to, ayes forty-three, noes not counted.

Mr. J. M. BAILEY. The second paragraph of this section as it now stands, bears a doubtful construction as to whether the county commissioners will not be obliged only to furnish three times the number of tickets to the number of voters, of both affirmative and negative votes, which would be one and a half for each. To avoid any misconstruction of that kind, which I know was not the intention of the mover of the substitute, and with his consent, I move to amend the same as follows: Add after the word "ballots" in the first line of the second paragraph the words, "of affirmative votes," and after the word "county," in the second line, strike out the words "of both affirmative and," and insert in lieu of them the words "and the same number of," so that the paragraph will read in this way.

"The county commissioners of the several counties shall cause to be prepared printed ballots of affirmative votes to the number of at least three times the number of votes in each county, and the same number of negative votes."

Mr. DARLINGTON. That then is printing six times the number we want. That is rather too many. ["No."] We have three affirmative votes for every voter, and three negative votes for every voter. This is too many.

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

The amendment was agreed to, ayes fifty-six, noes not counted.

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

Mr. STRUTHERS. I move to strike out the word "county" in the second clause

before "commissioners," so that it will read: "The commissioners of the several counties." It is not necessary to say "county commissioners of the several counties," and I also move the same amendment where the words "county commissioners" occur in the fifth line.

The amendment was agreed to.

Mr. M'CLEAN. It had better remain as it came from the committee. The official title of the officer is "county commissioner," and it should remain "county commissioner."

The PRESIDENT. That has been stricken out.

Mr. M'CLEAN. I did not understand the amendment to be agreed to.

The PRESIDENT. The Chair so announced. The question is now on the section as amended.

Mr. HARRY WHITE. I call for the reading of it.

The CLERK read as follows:

"The Secretary of the Commonwealth shall, at least twenty days before the said election, furnish to the commissioners of each county, a sufficient number of properly prepared circulars of instructions.

The commissioners of the several counties shall cause to be prepared printed ballots of affirmative votes to the number of at least three times the number of votes in each county, and the same number of negative votes; and the said commissioners shall, at least five days before said election, cause to be fairly distributed to the several election wards in each election district in their respective counties the said blanks, tally lists and returns and circulars of instruction."

Mr. KAINE. I thought the words "written or" were put in there.

The PRESIDENT. That is in another part of the section.

Mr. BIDDLE. The whole section has not been read yet.

Mr. DALLAS. There is another paragraph.

The PRESIDENT. The remainder of the section will now be read.

The Clerk read as follows:

"The ballots shall be written or printed in the following form: On the outside the words 'New Constitution;' in the inside, for all persons giving affirmative votes, the words 'For the New Constitution,' and for all persons giving negative votes, the words 'Against the New Constitution.'"

The motion as amended was agreed to.

The CLERK read the next section, as follows:

"IV. If it shall appear that a majority of the votes polled are for the new Constitution, then it shall be the Constitution of the Commonwealth of Pennsylvania on and after the first day of January, in the year of our Lord one thousand eight hundred and seventy-four; but if it shall appear that a majority of the votes polled were against the new Constitution, then it shall be rejected and be null and void."

The section was agreed to.

Mr. ARMSTRONG. I propose after the word "wards," in the preceding section, the words "or townships," so as to read "several election wards or townships." Or change the word "wards" to "districts," and that will cover all.

The PRESIDENT. The proposed amendment will be read.

The CLERK. In the third section it is proposed to strike out the words "wards in each election district" and insert "districts," so as to read, "cause to be fairly distributed to the several election districts in their respective counties."

SEVERAL DELEGATES. That is right.

The amendment was agreed to.

The CLERK read the next section as follows:

"V. Five commissioners of election, viz: Edwin H. Fidler, Edward Browning, John P. Verree, Henry S. Hagert and John O. James, are hereby appointed by this Convention, who shall have direction of the election upon this amended Constitution in the city of Philadelphia.

"The said commissioners shall be persons of good repute and qualified electors of said city, and shall be duly sworn or affirmed to perform their duties with impartiality and fidelity.

"It shall be the duty of said commissioners, or a majority of them, and they shall have authority to revise the registration of voters for the several wards or election divisions of said city, to correct the same, and to furnish the said corrected lists to the election officers of each precinct or division thereof; to distribute the tickets for said city provided for by this ordinance to be used at the election; to appoint a judge and two inspectors for each election division, by whom the election therein shall be held and conducted, and to give all necessary instructions to the election officers regarding their duties in holding the election and in making returns thereof.

"The general return of the election in the said city shall be opened, computed and certified before them, and with their approval—which approval shall be endorsed upon the return. They shall make report, directed to the President of this Convention, of their official action under this ordinance, and concerning the fairness of the said election within the said city.

"The judges and inspectors aforesaid shall conduct the election in all respects conformably to the general election laws of this Commonwealth, and with like powers and duties to those of ordinary election officers. Each inspector shall appoint one clerk to assist the board in the performance of its duties, and all the election officers shall be duly sworn or affirmed according to law, and shall possess all the qualifications required by law of election officers in this Commonwealth. At said election any duly qualified elector, who shall be unregistered, shall be permitted to vote upon making proof of his right to the election officers, according to the general election laws of this Commonwealth. Return inspectors and their clerks shall be dispensed with, but overseers of election may be selected for any precinct by said election commissioners, or appointed therefor by the court of common pleas of said city, whose duties and powers shall be the same as those of overseers of election in said city, under existing election laws applicable thereto.

Returns of the election shall be made in said city as in the case of an election for Governor, but a triplicate general return for said city shall be made out and forwarded to the President of the Convention, at Harrisburg, as is hereinafter provided in case of county returns.

Mr. DALLAS. I offer the following amendment as a substitute for the section—

Mr. STANTON. I suggest that the reading be dispensed with. We have already voted on it.

The Clerk proceeded to read the amendment.

Mr. HANNA. I move that the further reading be dispensed with.

Mr. DALLAS. I insist upon my right to have it read and to have it heard.

The PRESIDENT. The amendment will be read.

The CLERK read as follows:

"There shall be five commissioners of election for the city of Philadelphia, viz:

Edwin H. Fittler, Edward Browning, John P. Verree, Henry S. Hagert and John O. James. Said commissioners shall be sworn or affirmed to perform their duties with impartiality and fidelity.

The duties and powers of said commissioners shall be as follows:

1. They shall distribute the tickets for said city provided by this ordinance.

2. They shall appoint a judge and two inspectors for each election division, by whom the election therein shall be held and conducted, and they shall also appoint two clerks to assist said election officers in the performance of their duties. Return inspectors shall be dispensed with.

3. Upon the requirement of any two of said commissioners, an overseer of election shall be appointed by them for any election division or divisions.

4. Said commissioners shall give all necessary instructions to the election officers, clerks and overseers, and shall furnish them with copies of the last registry of voters for their respective divisions, corrected and revised by said commissioners in any case upon proper evidence submitted to them, and with all necessary books, papers and other articles for use in the performance of their duties.

5. Said election commissioners shall have power to fill vacancies in their own body, and to make new appointments to fill the place of any election officer, clerk or overseer, which from any cause may become vacant, and to revoke any appointment made by said commissioners; but in filling vacancies in their own body, or in any place that may become vacant amongst the election officers, clerks or overseers, the new appointee shall, in every case, be chosen from the same political party as that of the person whose place is to be filled.

The judge and one inspector, and one clerk shall, in all cases, be selected from the political party which polled the majority of legal votes in the election division for which they may be appointed, at the next preceding general election, and one inspector and one clerk shall, in all cases, be selected from the political party which polled the next highest number of votes in the said division at the said election; and no overseer who may be appointed shall be of the same political party as the judge in the same division.

The election officers aforesaid and the clerks and overseers shall be sworn or affirmed according to law, and shall possess

all the qualifications now required by law for election officers; but no person in official position, trust or employment, whether as principal or subordinate, under the United States, this State, or the said city or any ward thereof, shall be appointed an election officer, clerk or overseer; and the election shall be conducted in conformity with the general election laws of this Commonwealth, so far as they may be consistent with this ordinance; but no announcement of the state of the vote shall be made at any division until after the final closing of the polls. The duties and powers of overseers of said election in said city, shall be the same as under existing laws applicable thereto.

At said election the copy of the registry to be furnished by the said election commissioners as aforesaid, shall be presumptive but not conclusive evidence upon all questions of the right of any person offering to vote; but any duly qualified elector shall be permitted to vote notwithstanding his name may not appear upon said copy of registry upon making proof of his right to do so according to the general election laws of this Commonwealth.

The general returns of the election in the said city shall be opened, computed and certified before the said commissioners of election, at such time and place and such manner as they shall direct, and their approval or disapproval thereof shall be endorsed thereon or annexed thereto, together (in case of disapproval) with a statement of their reasons for disapproving the same, and said general return for said city shall be made out and transmitted as is herein provided in case of other county returns.

Mr. DALLAS. Mr. President: I have so recently pointed out to the delegates of this Convention the particulars in which my amendment differs from the proposition reported from the committee that it is unnecessary for me again to point out those differences. It is enough now that I state that the differences between the proposition reported by the committee and that contained in my amendment are mainly for the purpose of completing that proposition. I have no intention, therefore, of troubling the Convention again with the details of difference between the amendment and the proposition that comes from the committee. Enough that I say to those gentlemen who have given this subject attention, that they will find, upon examination,

that the difference between them mainly is this, that the amendment which I have offered makes complete and practical the purpose of the proposition reported from the committee, and this matter cannot be properly lightly treated by this body. A great deal of time has been absorbed in the discussion of the character of the ballot that was to be voted. Still more time has been spent in the discussion of what articles, if any, should be separately submitted to a vote of the people, all tending to determine the question of what was best to promote the prospects of successful election upon this Constitution.

Now, Mr. President, I unhesitatingly say that upon nothing does the success of this Constitution so much depend as upon a fair election in the city of Philadelphia. I care not whether you submit it in whole or in part; I care not whether you print but a single ballot, or two, or a dozen; if we have fraud in the city of Philadelphia at this election and that fraud is successful, your Constitution will fall, and gentlemen are bound to consider this subject who want this Constitution to succeed. It is the one subject-matter upon which our success or our defeat depends absolutely and certainly. No man, as far as I know, in this Convention, doubts the success of the Constitution in the country, but there are many of us in the city who feel that unless we can secure an election entirely different from any that we have had in this city for year after year, this Constitution will go by the board as certainly as the election is held.

Now, sir, if my amendment be voted down, I shall of course adopt the proposition of the committee; but I appeal to the gentlemen who are upon that committee as well as to every delegate in this Hall who wants this purpose of a fair election attained beyond doubt, to come to the support of this amendment as perfecting simply, and nothing more, the proposition which the committee itself reported.

Mr. LITTLETON. Mr. President: I regret exceedingly that the gentleman from Philadelphia, after the extended discussion which took place last night on this proposition, should have felt it necessary, not only to resume his efforts to have this amendment adopted instead of the reported section, but should have deemed it necessary to follow it with a speech. I think we have had sufficient discussion on the subject, and therefore, I do not propose to detain the Convention. I

merely rise to say that in my humble judgment the original section as it has been already adopted is infinitely superior to his proposition in every respect, and in every way. I therefore hope and ask that the Convention will adhere to its original action.

Mr. HAY. I desire to say one word to explain my own vote on this amendment. I am not prepared to say which of these two propositions is the better or which is the more complete, and I shall defer to the judgment and knowledge of the delegate from Philadelphia who has offered this amendment, knowing that he for years past has been very familiar with the conduct of elections in the city of Philadelphia, and that there is no man more competent to judge of the propriety of all these details in a section of the ordinance relating to the city of Philadelphia. I am satisfied that his knowledge is so complete on this question that I shall follow his advice in the matter.

Mr. J. PRICE WETHERILL. Mr. President: I have looked over the proposition offered by my colleague from Philadelphia and I am satisfied that with but one exception the amendments which he offers are unimportant and if there is any difficulty in the matter it can be arranged for satisfactorily. The amendments are immaterial, except one, which reads as follows:

"The judge and one inspector and one clerk, shall in all cases be selected from the political party which polled the majority of legal votes in the election division for which they may be appointed," &c.

I object to that clause. It seems to me that when we have named five commissioners to conduct the election they will do it fairly and squarely, and I think it unnecessary to restrict them by any such section as this, that they shall be forced to name judges or inspectors from either one political party or the other. I contend that the sound men of the two political parties will be chosen by these commissioners.

I do hope for that reason that the substitute offered by the gentleman from Philadelphia will be voted down, particularly as this feature of it is to my mind very objectionable.

The PRESIDENT. The question is on the amendment of the delegate from Philadelphia.

Mr. DALLAS. I call for the yeas and nays.

Mr. ROSS and Mr. CHURCH. I second the call.

The question being taken by yeas and nays, resulted yeas fifty-one, nays fifty-four.

So the amendment was rejected.

Mr. HANNA. I move to amend the first paragraph of the section by adding the following to the end thereof: "They shall also have power to fill vacancies in their own number."

Mr. TURRELL. I suggest another amendment to the gentleman from Philadelphia. In the third line of the first paragraph will be found these words: "Shall be persons of good repute and qualified electors of the city." As we have inserted the names of the commissioners, I hardly think the gentlemen from Philadelphia would want to retain such an expression as that.

The PRESIDENT. The Chair will put the question on the amendment suggested by the delegate from Susquehanna (Mr. Turrell) to strike out the words he has read.

The amendment was agreed to.

The PRESIDENT. The question recurs on the amendment of the delegate from the city (Mr. Hanna.)

Mr. ADDICKS. I trust the mover of that amendment will consent to allow me to offer the following as a substitute for it—

The PRESIDENT. You have the right to move it as an amendment.

Mr. ADDICKS. Then, sir, I offer the following as an amendment to the amendment:

"They shall have power to fill any vacancy that may occur in their body: *Provided*, That the person selected shall be of the same political party."

Mr. BUCKALEW. I hope that will not be agreed to.

Mr. ADDICKS. I do not wish to trust anything to chance. If one of my party, or of the opposite party, should die or resign and a vacancy thereby occur in this commission, I desire the person who succeeds him to be of the same political party.

Mr. JOSEPH BAILY. That is right.

Mr. TEMPLE. I hope that amendment will not prevail. Certainly, Mr. President, this should not be made a party issue. I have myself strictly resisted making it a party issue in any sense of the word, and if my friend assumes at this time that either political party is going to be arrayed against this Constitution, he is mistaken.

The PRESIDENT. The question is on the amendment to the amendment.

Mr. HARRY WHITE. I call for the yeas and nays.

Mr. D. W. PATTERSON. I second the call.

Mr. HAY. There certainly is no necessity for making this amendment. I am sure all the gentlemen of this Convention have perfect confidence in the commissioners who have been selected. There is not the slightest danger that they will do injustice. Let us leave the matter to their honor.

The question being taken by yeas and nays, resulted yeas thirty-five nays sixty-five.

So the amendment to the amendment was rejected.

The PRESIDENT. The question recurs on the amendment of the delegate from the city (Mr. Hanna,) to add at the end of the first paragraph these words: "They shall also have power to fill vacancies in their own number."

Mr. BIDDLE. That is right.

The amendment was agreed to.

Mr. HANNA. I move to amend the third paragraph by striking out after the word "ordinance" the words, "and concerning the fairness of the said election within the said city."

Mr. President, I make this motion in all sincerity, and because I think the words themselves do not comport with the tone of this Convention. It is the evident object of the Convention to select honorable gentlemen to conduct this election. I believe the names of the five selected are unobjectionable. Most of those gentlemen are personally known to me and known to all the delegates from the city of Philadelphia. They have been selected because the delegates from the city have every confidence in them. Now for us to say that the action of the gentlemen who shall be selected to conduct the election will be open to the charge of unfairness is uncomplimentary and unkind towards the commissioners. These five commissioners, I presume, will have the power to select the election officers throughout the different election divisions of the city. I believe they will perform that duty to the best of their ability and with fairness and integrity, having only a single eye to the performance of their duty. I have no idea that they will exercise any partiality, that they will have any leaning whatever in the performance of this duty; and why

should we in the very ordinance appointing these gentlemen, imply that they may be derelict, that there may be unfairness in the performance of the very work to which we assign them, and which we have confidence they will perform?

Mr. BUCKALEW. I will ask the gentleman whether it will answer his purpose to insert the word "conduct" in the last line, instead of the word "fairness?"

Mr. HANNA. I have no objection to that.

Mr. DALLAS. I suppose that change can be made by unanimous consent.

Mr. HANNA. Then I will withdraw my amendment.

The PRESIDENT. The amendment is withdrawn, and it is now moved to strike out the word "fairness" and insert "conduct," in the last line of the third paragraph.

The amendment was agreed to.

Mr. BUCKALEW. I desire to move an amendment. In the fourth division, fourth line, after the word "clerks," I move to add these words: "and hourly returns," so as to read: "inspectors and their clerks and hourly returns." That is a necessary consequence of the other change which has been made, dispensing with return inspectors.

Mr. DALLAS. I suggest that it is called "hourly announcement of the vote."

Mr. WORRELL. I should like to inquire of the gentleman from Columbia whether it is his intention to dispense with the hourly count or only the hourly announcement?

Mr. BUCKALEW. I want to dispense with the whole business of hourly counts.

Mr. WORRELL. There is an hourly announcement and an hourly count.

Mr. SIMPSON. This will carry both.

Mr. BUCKALEW. I want to dispense with the hourly count.

Mr. WORRELL. I suppose that is what ought to be said.

Mr. BUCKALEW. That is the term then: "hourly count."

The amendment was agreed to.

Mr. HEMPHILL. I move to amend by inserting after the word "affirmed," in the fourth line of the third paragraph, the words "by one of the judges of the district court," so as to read, "shall be sworn or affirmed by one of the judges of the district court."

The amendment was rejected.

Mr. DALLAS. I move to amend by striking out in the fourth paragraph and the third line from the bottom the words:

"Or appointed thereto by the court of common pleas of said city."

These words provide for the appointment of overseers by the court of common pleas, or alternately by the commissioners. I desire to leave that appointment of overseers exclusively with the commissioners. The court of common pleas has no jurisdiction to appoint overseers under our work.

The PRESIDENT. The question is upon the amendment.

The amendment was agreed to.

The PRESIDENT. The question recurs upon the section as amended.

Mr. HARRY WHITE. I cannot vote for the passage of this section. I am not prepared at this late day to enter into an extended discussion of the subject, or repeat the arguments which have been uttered against it. Sufficient is it to say, that this is an act of legislation on the part of this Convention, the power to do which I dissent from entirely. I recognize the fact that we have no power as a Convention, sitting under the act of our organization as we do, to dispense with the regularly recognized election authorities of the city of Philadelphia, or any other election district of Pennsylvania. I am unwilling, for one, to make a different rule for Philadelphia from that which we make for the rest of the Commonwealth.

Mr. TEMPLE. I should like to ask a question. Will the delegate from Indiana allow himself to be interrupted?

Mr. HARRY WHITE. I will not. I desire to say that I am unwilling to recognize by my vote here that all the scoundrellism of Pennsylvania is concentrated in the city of Philadelphia. More than that, I recognize the fact that there may be a great conflict of authority. There may be a legal conflict on the day appointed for the election on this Constitution. I recognize the fact that if the commissioners whom we have named, respectable men as they are, meet and appoint election officers and those election officers seek to assume their functions, the regularly appointed election officers in the city of Philadelphia, who held the last election, who held the regular election in October, may go to the polls and insist upon their right to hold the election upon the new Constitution. I recognize the fact that there may be a disputed authority there. I recognize the fact that appeal may be made to the courts of the city of Philadelphia, and to the highest court of the Commonwealth,

and confusion and delay may result in the carrying on of our election on the third Tuesday of December. I am satisfied that if I were a judge, with the light I have before me now, were the question raised before me on an application for a writ of *quo warranto*, or on an application for a writ of *mandamus*, or upon any other application which brought up the question of the right of the regularly constituted election authorities to discharge their functions, I would decide in favor of those who are already the regularly constituted election authorities of the city of Philadelphia. This is my opinion of the law, and I desire to record my vote against the authority of this Convention to pass a section of this kind.

If it is alleged that there is danger of fraud, if it is alleged that there is danger of interference, of there being a perversion of the returns, I am willing to appoint a committee of supervision. I am willing to vote for a committee of supervision and give them authority to go into the election room, to stand at the polls, to inspect as far as they can the registration lists, and to make report to this Convention at its next meeting, or to make report to the Legislature, if you please, when they meet in joint Convention to count the votes which are cast for this Constitution; and I, as a member of this Convention or as a member of the Legislature and of the joint Convention of the Legislature, am willing to investigate the question of fraud, but I want it done according to the recognized forms of law. I am willing to go that far, but no farther will I go. I call for the yeas and nays on the passage of this section.

Mr. D. W. PATTERSON. I second the call for the yeas and nays, as I entertain the same sentiments that have been expressed by the gentleman from Indiana.

Mr. TEMPLE. I submit to the delegates on this floor that the threat thrown out by the gentleman from Indiana can possibly have no effect whatever on the votes they are about to cast. He has stated to us, in so many words, that we are enacting a special law and a special regulation for the city of Philadelphia, and that we cannot do it. I ask delegates upon the floor to bear me out in saying that that distinguished delegate himself voted, in his place in the Senate of Pennsylvania, to enact a special election law for the city of Philadelphia under which we now hold our elections. I think that with all delegates here con-

sistency should be a jewel, and the very gentleman who by his vote and by his action gave us this abominable abortion for the city of Philadelphia ought to be the last man who should stand upon this floor and cast this bugaboo in our teeth. The writ of *quo warranto* or of peremptory *mandamus* that he has spoken of here, I apprehend will never be executed by the Supreme Court. They will recognize the sovereign right of this Convention to determine this question for themselves, and I undertake to say that there will be no judge on the bench of the Supreme Court, or of any other court, so mean as to undertake to grant a writ of *quo warranto* to prevent the proper execution of this ordinance. Of all things I say that any man in the State Legislature who was instrumental in giving us this special legislation for Philadelphia should be the last man to come upon this floor and complain of this Convention enacting a special ordinance for the conduct of the election upon the amended Constitution. I trust this section will be adopted notwithstanding the threats. I wish I could add the argument of the delegate from Indiana.

Mr. KNIGHT. I shall cast my vote against this section for the reason, in the first place, that I doubt whether we have a right to make this law before the Constitution is approved. In the second place, I regard this as casting a reproach upon the citizens of Philadelphia. I have stated here before that we in Philadelphia want to be put upon the same platform with the people throughout this Commonwealth. We have heard a great deal about corruption in our city, and we have generally heard it from those who are largely in the minority. It is frequently the case when men have no power, that they are apt to complain. If we cannot trust ourselves, we must be in a very bad way. The Debates of this Convention are so full of reports of corruption in this city that respectable gentlemen are ashamed to send them to their friends because they are not fit to be read. Gentlemen reading these Debates and forming their opinion of Philadelphia and Philadelphians from the charges made against us in this Convention, would suppose that we are worse than Sodom and Gomorrah! We ought to be sunk in mid-ocean if half of what has been said by many delegates on this floor be true. But I pronounce many things that have been said here false, and false

entirely. They should never have been uttered. We are one people in this State, and when gentlemen come to brand the citizens of Philadelphia with dishonesty and say that they shall have one law for conducting their elections and that the country shall have another, I say here, emphatically, that I am opposed to it.

Mr. SIMPSON. I intend to vote for this section and I hope the Convention will vote for it likewise, and that it will be adopted. It has been thrown in our teeth here, over and over again, that the elections in Philadelphia are not conducted properly and that results have been obtained that could not have been reached under other auspices. I am now about to vote for this section, because I hope the Convention will let the people of Pennsylvania see that under officers appointed by the authority of this Convention, the majority, for or against this Constitution, is so decided that there will be no mistaking what the people of this city mean.

Mr. CURTIN. I ask the indulgence of the Convention to utter a few words in relation to this subject. The very enlightened delegate from Philadelphia (Mr. Knight) truly says "that rumors are abroad that elections are not fair in this city." Very well, to reach the truth, I will say to the delegate that this Convention, as one of its many duties, proposes that an election shall be conducted in Philadelphia under a different arrangement from that heretofore used, so that if the rumors are false the fact may be vindicated. A registry law has been passed for Philadelphia which does not apply to other parts of the Commonwealth, and with the opportunities that law offers for fraud there are painful rumors, which are largely believed, that the voice of the people of this city is not declared at the ballot-box, and my good friend, the delegate, will feel better if this Convention gives him, and such as he is, an opportunity to vindicate the character of the city. God forbid that I should charge that the people of Philadelphia are not as pure as they are in other parts of the State, it would be ungrateful even if I believed it; but there are many, very many people in Pennsylvania who sincerely believe that the men who hold the political leading strings and rule the city, are not as pure as the delegates on this floor, and are not of the intelligent and virtuous people of Philadelphia of whom

the delegate who has just taken his seat (Mr. Knight) is a fair type and representative man. I would have such men vindicated against such general charges of corruption. Why, sir, we desire to treat the people of this city as our brothers, equals, to gather them in with us in a common fold and enjoyment of the same heritage of liberty; and when it is said, nay, when it has been proved in judicial proceedings that frauds are perpetrated throughout your city and up to your very doors, is it not just to you, my dear sir, (Mr. Knight,) to give you an opportunity to vindicate yourself and others like you from such suspicions?

Let it be known that this Convention desires, and if it has the power, *will have* a fair election on the amendments to the paramount law it will submit to the people.

Fully satisfied that the Convention has that power, I will vote for its full and judicious exercise.

I do not agree with the chairman of the Committee on the Judiciary in what he said to-day on the subject of the ordinance proposed. The government of the State is running in its groove fixed by the existing Constitution and laws, and not in the least affected by our power or action. We are here representing the sovereign will of the people, not by authority of the Legislature. That body merely put in motion the machinery for the people to create this Convention; up until the people declared for this Convention, the Legislature had full power to direct; but when the vote was declared, we came into existence by and were born of the people, who in that creation had resolved themselves back into their original and natural sovereignty. Yes, sir, we are here responsible only to the people of the Commonwealth, and act by their sovereign will, a power my friend, the delegate from Indiana, is always ready to obey, and of which he speaks so complacently and pleasantly when he has an opportunity. [Laughter.] We are at the top of the ladder provided by the Legislature and act in the presence of a different and more sacred responsibility. We can remove that ladder, and, forgetting the existence of the Legislature, (if it is possible,) we claim to represent three millions and a half of free people and are responsible to them only. We are not in the condition of the State running in the groove fixed

by the Constitution of 1837, regulated and controlled by statute laws. We are running parallel with it. We are making a new organic law, and to accomplish this correction the people are resolved back to first and fundamental principles. We stand in the place of the people, if they had resolved to meet together in their august sovereignty, as they clearly have the right, and declare a new, a higher, a greater law for the future government of the State. This Convention had its birth at the election when the people declared for it. Then the delegates were elected to represent the people. Up until that declaration the Legislature had authority; but from that day it had no power to control or influence, in the least degree, the action of this body. Unless such power is conceded, the last Legislature, sitting at the same time with this Convention, might have controlled it, or limited or enlarged its powers, which has not been pretended by any one. There need not be any conflict of powers. The government of the State runs on as usual. We are performing our functions as representing the people in a peaceful revolution. There is protection from the government to the people and obedience by them to it. While we represent them as their servants in their natural sovereign rights, and what we do will only be effective and demand obedience when our work is ratified at an election which this Convention can and should control and regulate so that it will be honest and fair. Here are two authorities which might run in antagonism, but are in fact perfectly harmonious. But the condition of popular will and governmental power which illustrates the wisdom of our fathers and should fill our hearts with gratitude for its exercise. We are very much in the condition of a territory of the United States when about to become a State. The people by a Convention form an organic law, elect their own officers, provide a new government, and start on a new career, acting entirely independent of the territorial government and its Legislature, of which they are relieved when this Constitution is adopted and approved by Congress. We are here for the same purpose. We offer the people, as they instructed us to do, a new organic law which they will consider. If adopted the peaceful revolution will be accomplished and the old Constitution will be displaced and the work of this

Convention take its place. We have assumed a great trust, the power of the body of the people is concentrated, boiled down to one hundred and thirty-three men, and under this solemn responsibility and the obligations of the oath we took when we assembled, we are bound to give to our work all we possess of integrity, wisdom and fidelity in offering to the people of the Commonwealth a new law as their foundation of their future government. Superior to all other duties, more sacred than any trust reposed in our hands by a confiding constituency is the full and independent exercise of the power to so provide that the people shall adopt or reject the work of their servants at an election fairly held by honest men, and that a free people shall not be cheated when their will is expressed by the ballot.

The delegate from Indiana intimates that there may be judicial proceedings by *mandamus* or *quo warranto* if we declare the ordinance. I have been so long out of the active practice of the profession that I have not a clear understanding of these writs. [Laughter.] They are the means by which a court, or sometimes a pliant judge, can interfere with active human affairs. If the newspapers, some time since, printed the real condition of legal proceedings in New York, each large railroad corporation had its own judge and could get *quo warranto* or *mandamus* or force their judge to damn himself at their pleasure. [Laughter.] Is there any judge in Pennsylvania who can be controlled by those who, last of all earthly things, desire a fair election in Philadelphia? If there is such a man we shall soon hear from him. It would be a painful duty for an honest judge to interfere with the action of a free people through their chosen representatives. This Convention could declare the manner of holding the election on the amendments all over the State just as if the people were forming an original government, and using the ordinary election law and officers is only for convenience, and the exception made in Philadelphia from the just and well grounded apprehension that an unfairness and fraud is threatened. As my friend from Indiana has intimated that judicial power may be invoked to defeat the action of this Convention, for the protection of the virtue of this city, I do wish it could occur before we adjourn. Really it would be a specta-

cle if the judge, with all the dignity of his place, surrounded by the officers, the appointments and paraphernalia of his high office and power, even clothed in the spotless ermine, should walk into this hall. To his *quo warranto* we could answer "we are here by the will of the people to give form to the highest expression of their sovereign power, and in the faithful discharge of an obligation we are bound to give them a fair election." If he carried with him a *mandamus*, in a friendly way we might caution him to double his diligence or his writ might damn him, and we might further answer and say *absque hoc*, which I believe when literally translated means, "we can do without such nonsense" (laughter) and you make yourself ridiculous and may be suspected of mad partizan zeal or imbecility. Having the power and, for quite sufficient reasons, this Convention should make full provision for a fair election in this city, so that the virtue and intelligence and patriotism of Philadelphia, of which my friend Mr. Knight is justly the exponent, shall be fairly expressed. We are at war only with those who are professional ballot-box stuffers, manipulators of votes, forgers of false returns of elections, repeaters, the representatives of the absent and of the names on the tombstones of the dead, and from the action of such machinations, if a tithe of all that is charged is true, we desire to protect the honesty of Philadelphia, and if the freemen of Pennsylvania reject the amendments proposed, it shall be done by a majority vote at a fair election.

I have referred to the position of the delegate from Lycoming and while differing with him as to the power of this Convention, I am willing to put the ordinance in the Schedule. It was a wise and sagacious suggestion of my friend, who, although from a rural district, has shown in this regard a training worthy of the most thorough political education of a city. [Laughter.]

The PRESIDENT. The gentleman's time has expired.

Mr. CUYLER. I ask unanimous consent that it be extended. ["Agreed."]

Mr. CURTIN. I am obliged, but will not use the indulgence except to say that the admonition of the delegate so well conned and adroitly put suits me exactly. Let us put the ordinance in the Schedule and the people will adopt it and then challenge to the front *quo warranto manda-*

mus, or any other technical writ or judicial power invoked to stifle the voice of the people. [Laughter.]

Mr. President, I profess to be the peer of any man in Pennsylvania in pride in this classic city, our great metropolis. As a citizen of the United States I trust I am not wanting in gratitude to this city for all her people did for our Government when in distress and peril. No community did more in that eventful period of our history, and feeling personally that sentiment of the human heart towards the people of Philadelphia who gave me generous confidence and willing support during a part of my life when oppressed by heavy responsibilities. I have now the opportunity to return part of that obligation by giving my assent to an ordinance which will give the honest and the patriotic a fair election as I did to that article of the Constitution which protects the ballot in the future, if adopted by the people of the Commonwealth.

Mr. J. PRICE WETHERILL. I think this section should be amended in one important particular. We have provided in the article on Suffrage and Election for certain qualifications for all election officers. I desire to amend the second paragraph of the section by adding to it these words:

"No person shall serve as an election officer who would be disqualified under section fifteen of article eight of this new Constitution."

We have provided in article eight, section fifteen, for the qualifications of election officers under this new Constitution. I desire, in order that we may be consistent with ourselves, to put the same qualifications upon the election officers who shall be chosen by these commissioners. If the Convention will pardon me, I will read section fifteen of article eight.

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

offices as shall be designated by general law.

That covers the ground. It says clearly and distinctly what the qualifications of an election officer shall be, and as this is a most important matter it does seem to me that the qualifications of the election officers in this instance should be the same as those we have prescribed elsewhere.

Mr. COCHRAN. I have but a word or two to say. I do not see the necessity of lumbering up this ordinance with so many clauses and provisions and restrictions. We propose to appoint five gentlemen, whose reputation and character have not been assailed, to hold the election in this city. No one has objected to them, and yet we undertake to tie their hands as if we suspected that they would do a wrong, and as if we could not trust them. I hope that we shall not do so, but that we shall confide this matter to these commissioners in whose hands we propose to place the control and management of this election. I do not believe that these gentlemen will appoint persons who are disqualified by law or who will not conduct the election fairly and squarely.

I do hope that we shall now stop this offering of amendments and get to the end of this section; for we have been wasting a great deal of time, in my apprehension, over this subject.

Further, I wish here to disclaim, once for all, when I vote for this section to appoint these commissioners to conduct the election in the city of Philadelphia, that I mean any reproach upon the people of this city. I only wish to have a practical test to see whether these charges which have been bandied about, to and fro across this hall for months past, are or are not founded in truth. I have no doubt of our power to do this thing, and now let us see whether or not the city of Philadelphia has been correctly described or not, in reference to these matters. I disclaim, utterly, any intention to impute to the good citizens of this community any disposition to practice wilful fraud in the conduct of their elections, but I do desire that in this connection we shall take such means as will enable them to show to the community at large, if they desire to do so, that they are clear of all these charges.

Mr. LITTLETON. I do not think that this amendment of the gentleman from Philadelphia (Mr. J. Price Wetherill)

goes far enough. It has the aroma of statesmanship, but the gentleman should have gone a little further, and he should add to his amendment:

"No man shall be an election officer who ever held an office or ever expects to hold one."

It would be even better if he would go further still and provide:

"That no one worth the sum of ten dollars shall hold the position of election officer, or no one who has ever received a testimonial of good character." [Laughter.]

Mr. J. PRICE WETHERILL. I will say to the distinguished delegate from Philadelphia that he will find that he voted for the section of the article on Suffrage and Election intended to be included in this ordinance. If this criticism applies in the one case, it applies equally in the other; and if it is just to me now, it was just to himself then. If he desires the election officers to be tied up in the one case that he has named, why did he not desire them to be tied up in the other? The gentleman is neither witty nor reasonable nor consistent. [Laughter.]

Mr. BUCKALEW. A word of explanation upon this amendment proposed by the gentleman from Philadelphia, for which I am disposed to vote because there is a reason for it. We have authorized the five gentlemen whom we have named, as commissioners to appoint all the election officers for this great city, and we ought at the same time to give them some rules by which their appointments shall be made similar to those we have prescribed in the laws of the Commonwealth for the whole State. By the general election law of this State, no person holding office under the United States, under the State, or under any city or county, is qualified to be an election officer. But, two or three years ago, it seems an act was slipped through the Legislature which removed that general limitation which obtains in the State, as to appointments made in this city, and hence there is a propriety in our directing the commissioners we have selected to conduct the election in this city to conform substantially to the general election laws of the State in the selections made by them.

A few words more and I am done with this ordinance. This eighth section of the ordinance was presented by me to the Convention, and was reported by me from

the Committee on Suffrage, Election and Representation. In its preparation I had the aid of the skillful and judicious hand of my friend, the member from Indiana (Mr. Clark.) We prepared without consultation with any one, upon the principle of making it as near right as we could, and it is in the form which we drew it save only as to the few amendments which have been added. And, sir, in view of what has been said here to-night, I must add that we looked at and carefully considered the question of power in this Convention to pass such a regulation as this proposed in the eighth section. We insist that the power of the Convention can be made good even upon the narrow ground of the Convention act under which we are assembled, for the fifth and sixth sections of that act, which contain provisions on this subject of the submission of the new Constitution to a vote of the people, in our judgment authorize precisely what is done by this eighth section.

One of those sections declares that the Convention shall submit the new Constitution or separate amendments "at such time or times and in such manner as the Convention shall prescribe," the most comprehensive terms conferring this power; and this word "manner" was the most fitly chosen of all words that could have been used to cover this field which the Convention are advancing upon by this section and those which are connected with it. It is a term used in the Constitution of the United States, which has undergone thorough debate, and it was the very word to insert here, in my judgment, to convey precisely this power over the entire field of the submission of our amendments to the people. In the other section, the fourth section, what is the language used, which has been referred to? Simply that the election shall be "conducted" according to the provisions of the general election laws of this Commonwealth. It is to be opened at the proper hour in the morning and closed at the proper hour in the evening; the right of challenge is to exist; votes are to be received and canvassed according to all these regulations of law; and our criminal statutes are applied to this election for the purpose of punishing all persons who shall offend against the integrity of the election. The election is to be placed under all the securities and guaranties of the established laws of the State so far as its management is concerned.

Now, sir, that is the only provision on the subject of the power of this Convention. There is no limitation as to our power to look after the registration of voters. There is no limitation upon our power with regard to selecting the officers who shall hold the election upon this new Constitution nor for making the other regulation which we have here in this ordinance, that a triplicate return shall be made to the President of this Convention, so that we shall have before us the voice of the people upon our work. I say all this which is proposed in this ordinance stands upon the solid foundation of statute law or is entirely consistent therewith. I am not obliged to go behind the Legislature of the State to seek for power in the sovereignty of the people which has been imparted to us by their votes; and he who ventures to assail the authority of these five respectable and honest citizens of Philadelphia whom we have chosen for this work, in the courts of law, will be turned away, and with the brand of judicial condemnation upon him for his interference, his impertinent interference, with the work performed by this Convention on behalf of the people.

The PRESIDENT. The question is on the amendment of the delegate from the city (Mr. J. Price Wetherill.)

The amendment was agreed to, ayes eighty, noes not counted.

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

Mr. BUCKALEW and others called for the yeas and nays.

The PRESIDENT. The yeas and nays have been already called for, and the Clerk will call the names of delegates.

The question being taken by yeas and nays resulted yeas ninety-four, nays fifteen.

So the section as amended was agreed to.

The CLERK read the next section as follows:

"VI. In each of the counties of the Commonwealth (except Philadelphia) returns of the election shall be made as in the case of an election for Governor, but the return judges in each county shall make out a triplicate county return, and transmit the same, within five days after the election, to the President of this Convention, at Harrisburg.

"Done in Convention this _____ day of _____, A. D. 1873."

The section was agreed to.

Mr. BUCKALEW. I move now that the ordinance be transcribed for a third reading.

The motion was agreed to.

Mr. HAZZARD. I ask leave to offer a resolution at this time.

SEVERAL DELEGATES. Let it be first read for information.

The PRESIDENT. The delegate from Washington asks leave to present a resolution at this time. It will be first read for information.

The CLERK read as follows:

Resolved, That the Clerk be instructed to prepare the parchment for the signatures of the members to be attached to the Constitution when printed.

The PRESIDENT. Will the House give the delegate liberty to introduce this resolution at this time? ["Aye." "Aye."] Leave was granted.

The resolution was read twice and considered.

Mr. HAZZARD. I offer this because some members will probably be compelled to go home before the session closes.

Mr. KNIGHT. We have already agreed to give a copy to the Historical Society which is to be signed.

The PRESIDENT. The question is on the passage of the resolution.

The resolution was agreed to.

Mr. HARRY WHITE. I move that the Convention do now adjourn.

Mr. LAMBERTON. Mr. President: There is a matter to which I wish to call the attention of the Convention. It may or may not be worthy of consideration, but it is the fact that the title to the ordinance has not been passed upon.

The PRESIDENT. I think it important that it should be.

Mr. LAMBERTON. I move, therefore, that the title of the ordinance of submission be approved.

Mr. AINEY. Has it passed third reading?

The PRESIDENT. Not yet.

Mr. HAY. Let this be done by unanimous consent.

The PRESIDENT. Is there objection? The Chair hears none, and the title of the ordinance will be agreed to.

Mr. LAMBERTON. I move that we now adjourn.

Mr. LITTLETON. I rise to ask a question. Do we adjourn to meet to-morrow morning or Monday morning?

The PRESIDENT. We adjourn to meet to-morrow at nine and a half o'clock when we do adjourn. It is moved that the Convention do now adjourn.

The motion was agreed to, and (at nine o'clock and fifty-five minutes, P. M.,) the Convention adjourned.

ONE HUNDRED AND SEVENTY-EIGHTH DAY.

SATURDAY, November 1, 1878.

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

PRAYER.

Rev. J. W. CURRY offered up the following prayer:

Oh, God, Thou who hast created us from the dust of the earth, when we consider Thy heavens, the sun, the moon and the stars as Thou hast ordained them, we are ready to ask ourselves the question, "what is man that Thou art mindful of him, or the son of man that Thou visitest him?" This morning we come before Thee in the closing hours of our deliberations, and after letting our minds pass back upon the year which has almost been spent in this work, we recognize Thy hand; we recognize Thy goodness in the preservation of our health and our lives; yet we are reminded also of our frailty, that we are dying mortals. From our number Thou hast called one from the western portion of the State to the judgment. Again, to remind us of our frailty, Thou has called one from the central portion of our Commonwealth, and yet again, we were reminded of our frailty by the passing away from earth of one from the eastern section of our State who presided over the deliberations of this body.

We know that we are following in the same train. We are conscious that the seeds of death are sown in these mortal bodies of ours, and that we are ripening for the tomb as fast as time rolls us onward. Oh, Lord, would it please Thee to prepare us for that change which awaits Adam's posterity!

We have been assembled here together from day to day in this important work. Shortly we shall separate, perhaps never to see each other's faces again on this side of eternity. Oh, would it please Thee to go with us to our homes! Be with us in our avocations of life. Wherever we may be, may we have the fear of

God before our eyes! May we strive daily to please Thee; and do Thou grant that in the end we may realize that we have not lived for naught, but that Thou hast been pleased with our lives and with our service.

We ask Thy peace to be upon the members of this Convention who are here this morning and upon those who are absent from us. Oh, let thy peace always be with us and ultimately save us as members of the Convention, as officers and employees, and all for whom we should pray, to enjoy eternal life in Heaven. Through Christ Jesus. Amen.

COMMITTEE ON REVISION.

Mr. BUCKALEW. Before the reading of the Journal proceeds, I ask the indulgence of the Convention to move that the Committee on Revision and their clerk have leave to retire for one hour from the Hall, to prepare their report.

Leave was granted.

JOURNAL.

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

LEAVES OF ABSENCE.

Mr. BIDDLE. Mr. President: Mr. S. A. Purviance has been called home by business of a very important character. I request leave of absence for him for the remainder of our session unless he can return, as to my knowledge, I believe he has never been absent before.

Leave was granted.

Mr. BEEBE. I desire to make a similar application in behalf of Mr. Dodd under similar circumstances.

Leave was granted.

FILES OF DEBATES AND JOURNALS.

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

Resolved, That the State Printer be and he is hereby directed to mail to the members and officers at their homes, the sheets of Debates and Journals to com-

plete desk files, as soon as practicable after they are printed.

Mr. KAINÉ. When the State Printer was here a few days ago, I spoke to him on this subject, and made the inquiry how we were to get the remainder of our Debates and the remainder of our Journals. He said he supposed the better way for him would be to keep them at Harrisburg after we adjourn and furnish them to us when we re-assemble in December.

Mr. HAY. Oh no; we want them distributed.

The PRESIDENT. The question is upon the resolution.

The resolution was agreed to.

THANKS TO PHILADELPHIA.

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

Resolved, That the thanks of this Convention are due to the city authorities of Philadelphia for their kindness and liberality in furnishing the Convention with this commodious hall, and we assure them of our high appreciation of their civility and uniform kindness.

COMMITTEE OF THIRTY-THREE.

The following named gentlemen were announced as the committee of thirty-three, having been selected by the delegates representing the several senatorial districts under the resolution adopted yesterday, viz: Thomas Howard, John M. Bailey, John S. Mann, Edward R. Worrell, James P. Barr, Josiah Funck, D. W. Patterson, M. C. Beebe, Thos. Struthers, Silas M. Clark, Chas. R. Buckalew, James Boyd, J. M'Dowell Sharpe, M. Hall Stanton, Chas. A. Black, Wm. J. Turrell, John M. Wetherill, Frank Mantor, C. M. Runk, John N. Purviance, Charles Brodhead, Wm. Darlington, James W. M. Newlin, Matthew Edwards, John Gilpin, Lewis Pughe, Henry S. Mott, Joseph Baily, Henry W. Smith, Wm. B. Hauna, John Gibson, Samuel Calvin, George A. Achenbach.

CIVIL RIGHTS.

Mr. HARRY WHITE. I move that the resolution I offered to add a section to the article on the Declaration of Rights be now considered.

Mr. TEMPLE. I rise to a point of order. This motion is not in order because that very resolution was voted down yesterday morning, and that was the end of it.

Mr. HARRY WHITE. This is a resolution offered by me and can be considered.

I move now to proceed to consider the resolution I offered to add an additional section to the article on the Declaration of Rights.

Mr. TEMPLE. I insist upon my point of order.

Mr. HARRY WHITE. I ask that the resolution be read.

The PRESIDENT. It will be read.

The CLERK. The resolution is for the addition to the Declaration of Rights of the following section:

"That no law shall be made or enforced within this Commonwealth that discriminates in favor of any class of persons by reason of color or race; and all public institutions, educational or otherwise, and all places for public amusement or for accommodation of travelers, shall be open and enjoyed by all persons on equal terms."

Mr. TEMPLE. I now renew my point of order. This very resolution was referred to a committee, the committee has reported and their report has been acted on. The resolution cannot now be re-introduced.

The PRESIDENT. The Chair is compelled to sustain the point of order.

Mr. HARRY WHITE. What is the point of order?

The PRESIDENT. The Chair certainly cannot do other than sustain the point of order, because the resolution was considered heretofore, referred to a committee, the committee have reported, and that resolution is gone.

Mr. HARRY WHITE. I merely want to explain that my motion now is to proceed to consider the report of that committee.

The PRESIDENT. The time has not come for reports of committees.

CONSTITUTION IN SHEET FORM.

Mr. HARRY WHITE. Then I offer the following resolution:

Resolved, That the Committee on Printing and Binding shall have printed, in sheet form, the new Constitution, and that as many copies be furnished to the different newspapers of the State as they each have subscribers, and that each of such papers be allowed at the rate of ten dollars per thousand circulation for distributing; and that the account of such newspapers be settled by the Auditor General in the usual way.

On the question of proceeding to the second reading and consideration of the resolution a division was called for, and

the eyes were forty-four, the noses not counted.

So the resolution was read the second time and considered.

Mr. HARRY WHITE. I am not devoted to this idea at all. It is merely a practical suggestion which I throw out to the Convention at the instance of several delegates who did not understand it yesterday and who wish another opportunity to vote on it. It is true that the act of Assembly, which delegates here do not regard as entirely binding, provided for the publication of our work in two newspapers in the different counties. I have already seen the controversy which is arising out of that. I heard applications made yesterday by papers in this city for the publication of the Constitution, and a considerable rivalry existed. So it will go on, and there will be considerable rivalry throughout the State, and the papers that do not get it will possibly be opposed to our work. That is apparent to every gentleman.

I know the Secretary of the Commonwealth would be glad to be relieved of this duty, but be that as it may, the question is, is this proper? Now what is it? The resolution may not be perfect. If it be not perfect put it in better shape. It provides for the ascertaining of the circulation of each newspaper in the State. We have a list of what newspapers there are. Then the State Printer is to print in sheet form as many copies as there are in circulation of the different papers of the State. A newspaper in Perry county, for instance, in which my friend here resides, may have a circulation of one thousand. The State Printer sends that paper one thousand copies in sheet form of this Constitution thus printed; the editor puts them inside of his papers and sends them to his subscribers.

Mr. MACCONNELL. I am told there are two newspapers in Philadelphia each of which, if this resolution should be passed, would get no less than 80,000 copies. I should like to inquire of the gentleman how much money will have to be paid for printing all those copies.

Mr. HARRY WHITE. Those sheets which will be furnished to each newspaper will be put inside the paper and sent to the subscribers. Thus every subscriber is supplied with an individual copy of the Constitution entire; and it is provided that the expense for furnishing the paper shall be one cent a copy, that is

ten dollars for each thousand of circulation. I call the attention of delegates to the fact that some country papers have in this way from time to time been supplied with extra copies of the President's message, the Governor's message, and divers other public documents by extras published in the city. I know how it is in my region of country. The papers published in my town have been supplied by the city papers with sheets of the President's message and they fold them in their own papers.

Mr. D. N. WHITE. I wish to ask the gentleman a question. I ask whether this is exclusive of the publishing in the papers besides.

Mr. HARRY WHITE. My desire would be to add a clause, "this to be in lieu of publication by the Secretary of the Commonwealth." ["No." "No."] That seems not to be acceptable and I will not press it.

Mr. BIGLER. Mr. President: The proposition pending, I think, is in the right direction. It would not do to undertake to publish this instrument in all the newspapers of the State; but that some authority should print it in proper form and have it circulated by the various newspapers equal to the circulation of each, seems to be the most effective and at the same time the least expensive of any mode that can be devised. When the subject was called up I was in the act of preparing what I thought would meet the case, and that was to require of the committee of five appointed by this body to superintend the submission of the Constitution for ratification, to impose on that committee the duty of having the Constitution thus printed and sent to the several papers for circulation. Perhaps the mode now presented will answer quite as well. I shall not, at least for the present, propose to amend it, but it is certainly of the utmost importance, in view of the brief time that remains, wherever this authority may be reposed, that we shall know that it will be very promptly executed, or else it will fail of its purpose. Now, I do not know that it can be circulated from Harrisburg as promptly as the needs of the case require, but I do think the mode indicated of printing it for circulation by the newspapers of the State is the proper one.

Mr. CURTIN. I desire to say, Mr. President, that having had a connection with two amendments to the Constitution and

some knowledge of the means of publication and the expense—

Mr. HARRY WHITE. Will the delegate give way a moment? I appeal to the Convention to pay some attention to this matter. I shall be glad to hear the experience of the delegate from Centre, who was Governor at the time important amendments to the Constitution were submitted.

Mr. CURTIN. I had the honor to advertise in the newspapers the amendment of the Constitution proposed in the Senate by the delegate from Columbia and which afterwards passed into the Constitution, and I know quite well the expense that attends the advertising. It is a subject upon which I have reflected seriously, and I confess that I was greatly at fault to know what to propose, and at the time the delegate from Indiana read his proposition, it occurred to me as the most feasible, the cheapest and the most effectual manner of placing this Constitution before the people. I would pay liberally for the work he proposes, for it will cost very little comparatively. Any other mode that you can propose will be very expensive. Indeed all I have to say is, without entering into details, that the Convention should feel obliged to the delegate from Indiana for devising a plan of advertising so feasible and so cheap, and that it meets my most cordial and entire approbation.

Mr. HAY. It seems to me that this would be one of the very best methods that have been suggested for circulating this Constitution. I know no other which will reach the same number of people in the same time. It also seems to me to be a comparatively inexpensive method of circulation, or rather that it would be with a modification of the resolution. As it stands now, I think the carrying out of this resolution would prove a very serious matter. I would suggest to the delegate from Indiana to add after the word "State" at the end of the fourth line of his resolution the words, "which will circulate the same," in order to confine the printing of the number of copies to the number of the subscribers of newspapers which will agree to circulate them. If that number of copies is to be printed which will equal the whole circulation of all the newspapers in the State, a very much larger number will be printed than is at all necessary, be-

cause many of the papers will perhaps not agree to make this circulation.

I hope, however, that the resolution in some shape will be agreed to, but that modification ought to be made, and must be made before it can receive my vote, because I believe that the expense otherwise will be double, triple, or quadruple what it ought to be.

Mr. MANTON. Mr. President: I would suggest to delegates this morning that inasmuch as this plan seems to be somewhat new and rather feasible, we postpone it until twelve o'clock and make it the special order at twelve o'clock. I move that it be made the special order of business at twelve o'clock.

The PRESIDENT. It is moved that the further consideration of the resolution be postponed until twelve o'clock to-day and that it be made the special order for that hour.

The motion was not agreed to.

Mr. WHEBBY. There are one or two difficulties in my mind in supporting this resolution. I am not sure whether the postal laws will allow the introduction of this printed matter into the papers circulated throughout the State. Then I cannot understand how it is possible to get the numbers of subscribers of these different papers in time to make the circulation effective. In the third place, we have no power to impose this duty on the papers; they may accept it or reject it, and these printed copies may lie in the express office and never be opened. These are the three difficulties to my mind. If they can be removed I will support the proposition.

Mr. COCHRAN. I hope this proposition, or something like it, will be adopted. The only difficulty I have about the pending proposition is, in the first place, that we have no assurance that the papers would agree to circulate the Constitution for the price fixed; and in the next place, to ascertain the circulation of each particular paper will require some time, and I do not know but that it will require more time than we can afford. Those are the only two objections that I see to the proposition; but we must adopt this or something like it. If I cannot get anything better I will vote for this.

Mr. H. G. SMITH. Mr. President: I think I understand something about this question, and therefore I will trespass on the time of the Convention for a few minutes.

This question of printing the Constitution and laying it before the people in print is one about which I have thought a good deal. The law provides that the Secretary of the Commonwealth shall print it in two or more newspapers in each county of the Commonwealth. The length of the Constitution would necessarily render the bill for advertising a very heavy expense, if it were published at proper advertising rates, and I do not suppose any newspaper in the Commonwealth would like to publish it as an advertisement except at advertising rates. What the expense would be, I cannot begin to estimate fairly; but it would be very heavy. The Secretary of the Commonwealth might consider himself bound by the act of Assembly, despite our action. He might not have the same views with regard to acts of Assembly that we entertain here. He may consider himself bound to follow the law in this particular, and he may, whatever we do, send this Constitution, when we have finished it, to the different newspapers of the Commonwealth that he chooses to select and order its publication. He has a right to do it, and under the law the Legislature would unquestionably be bound to pay any bills thus contracted. I do not know what he may do in the matter; I do not know what his view of his duty, under the circumstances, may be. I do know very well that the newspapers of the State expect to publish this Constitution as an advertisement. I know they expect to receive it from the Secretary of the Commonwealth. What course he will pursue, under these circumstances, I do not undertake to say, nor do I know whether the action of this Convention will control him in this matter.

But in regard to the proposition in hand, it proposes to publish as many copies of this Constitution and to furnish them to the different newspapers of the State, and to pay them ten dollars a thousand for circulating them. That proposition, as presented, is utterly impracticable for two reasons. In the first place, they cannot send them through the mails unless they are headed "supplement to such and such a paper." Then they may circulate it just as the *Ledger* came this morning with its "supplement to the *Ledger*." But in order that that may be done one of two things must be done: Either for each newspaper in this Commonwealth there must be set up a new heading, and

the slips which are to be sent must be sent from the office where printed with this heading to the office from which they are intended to circulate, or after they come to hand the words "supplement to such and such a newspaper" must be printed at the head of them in the office where they go. In either case, in my judgment, you run the risk of securing a very limited circulation for your paper.

Another thing: Ten dollars per thousand would scarcely pay any newspaper in this Commonwealth for the trouble alone of folding these sheets in with their regular issues. The delay which would be caused in sending out the issue of any newspaper in this Commonwealth in consequence of having to fold and insert these sheets with the regular issue would be considered by almost any newspaper more than equivalent to the compensation which you offer.

Mr. HARRY WHITE. Allow me to suggest that the difficulty which the gentleman speaks of in regard to the different heading will be met by the State Printer printing the word "Supplement" at the head of each sheet. That is often done by the papers.

Mr. H. G. SMITH. It will not meet the requirements of the law. If the heading should be strictly true, the post-office might allow it to go, but really it would not be meeting the requirements of the postal law.

I throw out these suggestions from my knowledge of the question, and I do not say one word to influence the members in their action one way or the other. The Secretary of the Commonwealth will have his view of the matter probably; but one thing is sure: whatever we do in regard to this matter must be done quickly and with dispatch. If this Convention determine to leave the law take its course as it stands on the statute books to-day in the act of Assembly, they ought at once to order that immediately after the adjournment of this Convention, within twenty-four hours if possible, a copy of this Constitution, revised and corrected, be placed in the hands of the Secretary of the Commonwealth in order that he may have slips printed and distribute them to the papers from which to print the Constitution in the form of an advertisement. Whatever is done must be done with dispatch if we intend to comply with the requirement of the act of Assembly which provides that this publication shall be

made at least thirty days prior to the election.

Mr. HARRY WHITE. I do not want to move it at this time but I throw out the suggestion, and it may be moved by some one else, that this resolution be referred to a committee of five, who shall report as soon as possible.

Mr. JOSEPH BAILY. That is a good idea.

Mr. HARRY WHITE. I will move then that it be referred to a committee of five, to be appointed by the Chair.

Mr. DARLINGTON. I second the motion.

Mr. D. N. WHITE. I desire to offer a substitute for the resolution.

The PRESIDENT. Does the delegate from Indiana withdraw his motion?

Mr. HARRY WHITE. I withdraw it in order to allow the amendment to be received, and then let it go with the resolution to the committee.

Mr. D. N. WHITE. I offer the following amendment as a substitute :

Resolved, That in lieu of publishing the Constitution in two newspapers in each county, as provided in the Act of Assembly, the Secretary of the Commonwealth shall cause to be printed in sheet form the amended Constitution and accompanied by the address, as supplements to as many of the newspapers in the State as will agree to circulate the same in one daily and in one weekly issue of their papers for the sum of ten dollars per thousand."

Mr. COCHRAN. I desire to call the attention of the gentleman from Allegheny to the fact that according to the form of expression in that amendment, if I understand it aright, the publication would be confined to papers which published daily as well as weekly issues. If he will make it "daily or weekly" it will obviate the objection.

Mr. TURBELL. If I understand the phraseology of that resolution, it says ten dollars per thousand. That would vary the compensation to the printers very greatly, because the country papers run from five hundred to five thousand. The county paper in my county having the largest circulation, has over five thousand.

Mr. D. N. WHITE. It would be just as much as it would cost them. They will be paid according to the amount that they circulate.

Mr. HARRY WHITE. I now renew my motion, that the resolution and the amendment be referred to a committee of five, to be appointed by the Chair.

The motion was agreed to.

The PRESIDENT subsequently appointed Mr. Harry White, Mr. H. G. Smith, Mr. Cochran, Mr. Barr and Mr. D. N. White as the committee.

SETTLEMENT OF ACCOUNTS.

Mr. HAY, from the Committee on Accounts and Expenditures, submitted the following report :

"The Committee on Accounts and Expenditures of the Convention, respectfully reports,—

1. That there is due to the official reporter of the Convention for his services from the date of the last settlement (to the end of the seventh volume of the Debates,) up to and including page 449 of the eighth volume, the sum of seventeen hundred and thirty-eight dollars and sixty-four cents, for the payment of which a warrant should be drawn.

2. That an account of Wm. F. Murphy's Sons, for stationery, inkstands, &c., amounting to one hundred and thirty-six dollars and eighty-five cents has been presented to the committee; and it appearing from the certificate of the Chief Clerk thereto attached, that the same is correct and that the articles mentioned therein were ordered by him for the Convention, and that the prices charged therefor are correct, it is reported that the same should be paid.

3. That an account of D. F. Murphy, for reporting and transcribing testimony taken by the Select Committee of Investigation, amounting to two hundred dollars has been presented; and it appearing from a certificate of the chairman of said committee that said bill is correct and that Mr. Murphy was employed by the committee to do said reporting, it is reported that the same should be paid.

The following resolutions are accordingly reported for the action of the Convention :

Resolved, That the above mentioned accounts are hereby approved; and that warrants be drawn upon the State Treasurer in favor of Wm. F. Murphy's Sons for one hundred and thirty-six dollars and eighty-five cents, and D. F. Murphy for two hundred dollars, for the payment thereof.

Resolved, That a warrant be drawn upon the State Treasurer in favor of D. F.

Murphy, official reporter of the Convention, for the sum of one thousand seven hundred and thirty-eight dollars and sixty-four cents, in full payment for his services up to and including the twenty-eighth day of October, 1873.

The resolutions were severally read twice and adopted.

SUBMISSION OF JUDICIARY ARTICLE.

Mr. LAMBERTON. I offer the following resolution:

"Resolved, That there be a separate and distinct submission of the article on the Judiciary to a popular vote."

The resolution was ordered to a second reading and read the second time.

Mr. ARMSTRONG. I move to amend the resolution by inserting the words "twenty-seventh section of the" before the words "article on the Judiciary." That is the section providing for a judicial district for every forty thousand people.

Mr. DE FRANCE. Is that debatable.

Mr. HALL. It is not debatable, and I ask for the question.

Mr. ARMSTRONG. I hope that this amendment will be inserted, and then that the resolution will be voted down.

Mr. LAMBERTON. I call for the yeas and nays.

Mr. ARMSTRONG. I second the call.

Mr. LAMBERTON. If I can, I wish to withdraw my resolution and let a vote be taken on this other proposition first.

SEVERAL DELEGATES. You cannot do that.

Mr. LAMBERTON. Then, Mr. President—

The PRESIDENT. It is not debatable.

Mr. LAMBERTON. Mr. President: Have you ruled it to be in order, when a resolution contemplating the separate submission of a separate and distinct article is presented, that something else, not germane to it, can be introduced as an amendment?

The PRESIDENT. I had not thought of that matter.

Mr. ARMSTRONG. This is a part of the same article.

Mr. AINEY. I was going to suggest that if it is competent to offer an amendment when it is proposed to submit a separate article, you can defeat every offer that is made.

The PRESIDENT. The Chair will sustain the point of order.

Mr. LILLY. I have another point of order.

Mr. LAMBERTON. The Chair has sustained this point of order.

The PRESIDENT. The Chair feels himself compelled to sustain the point.

Mr. ARMSTRONG. The original resolution is to submit the entire article. I do not see why it is not competent to submit a particular section, and to move that as an amendment.

Mr. LAMBERTON. I rise to a point of order. The Chair having decided the point of order, the gentleman from Lycoming cannot speak upon it.

Mr. ARMSTRONG. I ask for the reading of the rule under which this decision has been made.

Mr. D. W. PATTERSON. It is decided, and the decision is fair, for it will carry out the rule.

Mr. ARMSTRONG. I ask for the reading of the rule with regard to submission. It is the forty-third rule, I am told.

The PRESIDENT. The rule will be read.

The CLERK read as follows:

"That when any article or articles of amendment proposed to the Constitution shall have received three several readings and been finally passed by the Convention, one-third of all the members of the Convention shall have the right, by motion or resolution in the usual manner, to require the separate and distinct submission to a popular vote of any such article, or amendment, or separable section proposed and finally passed, as above stated by the Convention."

Mr. ARMSTRONG. That brings in a section, I submit.

Mr. LAMBERTON. It is the undoubted right of the delegate from Lycoming to move to have a separate section submitted. It is the undoubted right also of other delegates to move to have the article submitted.

The PRESIDENT. The Chair does not change his opinion. He believes the point of order is well taken. The question is on the resolution offered by the gentleman from Dauphin.

Mr. LAMBERTON. I call for the yeas and nays.

Mr. BOYD. I second the call.

The CLERK proceeded to call the roll, but, before the vote was announced,

Mr. HARRY WHITE said: I do not know what the result is, but I know there are enough gentlemen absent to make the requisite one-third.

Mr. TURRELL. I call the gentleman to order.

The PRESIDENT. Gentlemen will take their seats and allow the clerks to perform their duty.

Mr. HARRY WHITE. Let my remark go on the record.

The result was then announced, as follows:

YEAS.

Messrs. Alney, Alricks, Bailey, (Huntingdon,) Bannan, Barclay, Black, Church, Cronmiller, Darlington, Edwards, Ewing, Gilpin, Hanna, Harvey, Hemphill, Heverin, Horton, Lamberton, Landis, Lilly, M'Clean, M'Michael, M'Murray, Mantor, Minor, Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Porter, Purviance, John N., Reed, Andrew, Rooke, Ross, Simpson, Struthers, White, Harry, Woodward and Worrell—38.

NAYS.

Messrs. Achenbach, Andrews, Armstrong, Baer, Bally, (Perry,) Barr, Bidle, Bigler, Bowman, Boyd, Brodhead, Brown, Calvin, Campbell, Clark, Corbett, Curry, Curtin, Dallas, Davis, De France, Dunning, Elliott, Ellis, Gibson, Guthrie, Hall, Hay, Hazzard, Kaine, Lawrence, Lear, Littleton, MacConnell, M'Camant, M'Culloch, Mann, Mott, Newlin, Niles, Palmer, G. W., Patton, Pughe, Purman, Read, John R., Runk, Russell, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Temple, Turrell, Van Reed, Wetherill, John Price, Wherry, White, David N., Wright and Walker, *President*—31.

So the resolution was not agreed to.

ABSENT.—Messrs. Addicks, Baker, Bardsley, Bartholomew, Beebe, Broomall, Buckalew, Bullitt, Carey, Carter, Cassidy, Cochran, Collins, Corson, Craig, Cuyler, Dodd, Fell, Finney, Fulton, Funck, Green, Howard, Hunsicker, Knight, Long, MacVeagh, Metzger, Mitchell, Parsons, Purviance, Sam'l A., Reynolds, Wetherill, J. M. and White, J. W. F.—34.

SUBMISSION OF REPRESENTATION CLAUSE.

Mr. HAY. I call for the orders of the day.

The PRESIDENT. Resolutions are yet in order.

Mr. D. W. PATTERSON. I offer the following resolution under rule forty-three:

Resolved, (Under the forty-third rule,) That the following clause of section seventeen of the article on the Legislature, No. 2, to wit: "Each county shall have at

least one Representative," be submitted separately to the vote of the people, and so placed on the ballot provided for by the ordinance.

I move to proceed to the second reading of the resolution, and on that question I call for the yeas and nays.

Mr. HARRY WHITE. I second the call.

Mr. D. W. PATTERSON. The section stands complete without that clause. I want to do justice to the people of this State in reference to the matter of representation.

Mr. HALL. As I recollect, rule forty-three as read from the Clerk's desk, it does not contemplate the separate submission of a clause of a section, but only of an article or section. I raise that point of order.

Mr. D. W. PATTERSON. Oh, yes, it does.

Mr. HALL. Let the rule be read.

The CLERK read as follows:

"That when any article or articles of amendment proposed to the Constitution shall have received three several readings and been finally passed by the Convention, one-third of all the members of the Convention shall have the right, by motion or resolution in the usual manner, to require the separate and distinct submission to a popular vote of any such article, or amendment or separable section proposed and finally passed as above stated by the Convention.

Mr. EWING. I rise to a point of order. This resolution cannot be sustained. It proposes to submit, not a section, but a clause of a section, and it does not come under the rule. The entire section, the Chair will see, covers the number of representatives and the manner of apportionment, and now we are asked to submit a clause, that part which refers to the manner of apportioning the members, whereas a section is the smallest amount that can be submitted under the rule.

The PRESIDENT. The Chair sustains the point of order.

SUBMISSION OF TAXATION ARTICLE.

Mr. D. W. PATTERSON. I offer the following resolution:

Resolved, (Under rule forty-three,) That article nine on Taxation and Finance be submitted to the people to be voted upon separately."

The PRESIDENT. What order will the Convention take on the resolution?

Mr. D. W. PATTERSON. I move to proceed to its second reading and considera-

tion, and on that question I call for the yeas and nays.

Mr. HARRY WHITE. I second the call.

Mr. D. W. PATTERSON. I wish to say that the article should never have been passed.

Mr. BOYD. That is debating the resolution.

The PRESIDENT. Debate cannot be permitted. The resolution has been read. The yeas and nays have been called for upon the question of proceeding to its second reading and consideration, and the Clerk will call the names of delegates.

The yeas and nays were taken and were as follow :

YEAS.

Messrs. Ainey, Alricks, Barclay, Darlington, Ewing, Mantor, Patterson, D. W., Reynolds, Simpson and White, Harry—10.

NAYS.

Messrs. Achenbach, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Barr, Beebe, Biddle, Bigler, Black, Bowman, Boyd, Brodhead, Brown, Calvin, Campbell, Church, Cochran, Corbett, Cronmiller, Curry, Curtin, Dallas, Davis, De France, Dunning, Edwards, Elliott, Ellis, Funck, Gibson, Gilpin, Guthrie, Hall, Hanna, Harvey, Hay, Hazzard, Hemphill, Heverin, Horten, Howard, Kaine, Lamberton, Landis, Lawrence, Lear, Lilly, Littleton, MacConnell, M'Clean, M'Culloch, M'Murray, Mann, Mott, Newlin, Niles, Palmer, G. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Purviance, John N., Read, John R., Reed, Andrew, Ross, Runk, Russell, Sharpe, Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Temple, Turrell, Van Reed, Wetherill, Jno. Price, Wherry, White, David N., Woodward, Worrell, Wright and Walker, *President*—87.

So the question was determined in the negative.

ABSENT.—Messrs. Addicks, Baker, Bardsley, Bartholomew, Broomall, Buckalew, Bullitt, Carey, Carter, Cassidy, Clark, Collins, Corson, Craig, Cuyler, Dodd, Fell, Finney, Fulton, Green, Hunsicker, Knight, Long, MacVeagh, M'Camant, M'Michael, Metzger, Minor, Mitchell, Palmer, H. W., Parsons, Purviance, Samuel A., Rooke, Smith, H. G., Wetherill, J. M. and White, J. W. F.—36.

SUBMISSION OF RAILROAD ARTICLE.

Mr. HANNA. I offer the following resolution.

Resolved, That article seventeen, on Railroads and Canals, be submitted to a separate and distinct vote of the people.

I move to proceed to the second reading and consideration of the resolution, and on that motion I call for the yeas and nays.

Mr. EDWARDS. I second the call.

Mr. BOYD. I rise to a point of order. Is it in order to renew a resolution that we voted upon yesterday?

The PRESIDENT. We are considering resolutions now, and it is in order. Those in favor of proceeding to the second reading and consideration of the resolution will answer "yea" to their names as they are called. The Clerk will proceed with the roll.

The yeas and nays were taken and resulted as follow :

YEAS.

Messrs. Ainey, Alricks, Bailey, (Huntingdon,) Barclay, Black, Cuyler, Edwards, Ewing, Gilpin, Hanna, Hemphill, Howard, Lilly, Patterson, D. W., Patterson, T. H. B., Purviance, John N., Reynolds, Rooke, Simpson, Stanton, Wetherill, J. M. and White, Harry—22.

NAYS.

Messrs. Achenbach, Andrews, Armstrong, Baer, Baily, (Perry,) Bannan, Barr, Beebe, Biddle, Bigler, Bowman, Boyd, Brodhead, Brown, Buckalew, Calvin, Campbell, Cochran, Corbett, Cronmiller, Curtin, Dallas, Darlington, De France, Dunning, Elliott, Ellis, Funck, Gibson, Guthrie, Hall, Harvey, Hay, Hazzard, Heverin, Horten, Kaine, Landis, Lawrence, Lear, Littleton, MacConnell, M'Camant, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Newlin, Niles, Palmer, G. W., Patton, Porter, Purman, Read, John R., Reed, Andrew, Ross, Runk, Russell, Sharpe, Smith, H. W., Smith, Wm. H., Struthers, Turrell, Van Reed, Wetherill, J. Price, Wherry, White, D. N., Woodward, Worrell, Wright and Walker, *President*—72.

So the question was determined in the negative.

ABSENT.—Messrs. Addicks, Baker, Bardsley, Bartholomew, Broomall, Bullitt, Carey, Carter, Cassidy, Church, Clark, Collins, Corson, Craig, Curry, Davis, Dodd, Fell, Finney, Fulton, Green, Hunsicker, Knight, Lamberton, Long,

MacVeagh, M'Michael, Metzger, Minor, Mitchell, Mott, Palmer, H. W., Parsons, Pughe, Purviance, S. A., Smith, H. G., Stewart, Temple and White, J. W. F.—30.

SUBMISSION OF JUDICIAL DISTRICT SECTION.

Mr. JOSEPH BAILY. I want the attention of the Convention for a moment. I move that the twenty-seventh section of the Judiciary article be submitted to the people for a separate vote. I mean the section that relates to the creation of separate judicial districts in counties having 40,000 population.

Mr. TEMPLE. I rise to a point of order that this motion was voted down this morning in the motion to submit the article on the Judiciary to a separate vote of the people.

Mr. JOSEPH BAILY. I call for the yeas and nays on my motion.

Mr. NEWLIN. I second the call.

Mr. TEMPLE. My point of order is not decided.

The PRESIDENT. The Chair cannot entertain the point of order. This is a motion to submit to a separate vote of the people a distinct section of the judiciary article, and the gentleman from Perry has a right to vote upon his motion. The yeas and nays have been called for and the Clerk will proceed with the roll-call.

The Clerk proceeded to call the names of delegates.

Mr. HAY. (When his name was called.) I vote "nay" upon this proposition although opposed to the section, feeling obliged to do so because I deem myself bound to sustain the unity of the Constitution.

The call was concluded and the result announced as follows:

YEAS.

Messrs. Ainey, Alricks, Baily, (Perry,) Bailey, (Huntingdon,) Barolay, Beebe, Black, Buckalew, Calvin, Church, Cronmiller, Darlington, Fell, Funek, Gilpin, Hanna, Lambertson, Landis, Lilly, Littleton, M'Clean, Mantor, Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Reed, Andrew, Reynolds, Rooke, Ross, Simpson, White, Harry and Woodward—32.

NAYS.

Messrs. Achenbach, Andrews, Armstrong, Baer, Bannan, Bardsley, Barr, Biddle, Bigler, Bowman, Boyd, Brodhead, Brown, Campbell, Carey, Clark,

Cochran, Corbett, Curry, Cuyler, Dallas, Davis, De France, Dunning, Elliott, Ellis, Ewing, Gibson, Guthrie, Hall, Harvey, Hay, Hemphill, Heverin, Horton, Kalne, Lawrence, Lear, MacConnell, M'Camant, M'Culloch, M'Murray, Mann, Mott, Newlin, Niles, Palmer, G. W., Patton, Porter, Pughe, Purman, Purviance, John N., Runk, Russell, Sharpe, Smith, H. W., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Van Reed, Wetherill, John Price, Wherry, White, David N., Worrell, Wright and Walker *President*—68.

So the motion was not agreed to.

ABSENT.—Messrs. Addicks, Baker, Bartholomew, Broomall, Bullitt, Carter, Cassidy, Collins, Corson, Craig, Curtin, Dodd, Edwards, Finney, Fulton, Green, Hazard, Howard, Hunsicker, Knight, Long, MacVeagh, M'Michael, Metzger, Minor, Mitchell, Parsons, Purviance, Samuel A., Read, John R., Smith, H. G., Stewart, Wetherill, J. M. and White, J. W. F.—33.

SUBMISSION OF SPRING ELECTION SECTION.

Mr. MANN. If I am not mistaken, articles on third reading are now regularly in order. We have passed the regular time for receiving resolutions and have received the report of a committee. I now move that we take up the article on Schedule on third reading.

Mr. D. W. PATTERSON. I call for the orders of the day. I have a resolution to offer. I offer the following under the forty-third rule—

Mr. MANN. I rise to a point of order. My motion is now pending and it is a motion regularly in order.

The PRESIDENT. Resolutions are in order, and the delegate from Lancaster calls for the orders of the day. Therefore his resolution must be received.

Mr. MANN. I understood the President to say distinctly some time since that reports of committees should be received. The President certainly did say that, and did receive a report of a committee.

Mr. D. W. PATTERSON. No, sir! We only permitted a single special report to be introduced from the Committee on Accounts and Expenditures.

Mr. HAY. I desire to say that that report was not presented until I heard from the Chair that reports of committees were in order. I considered that the period for offering resolutions was past,

or I would not have presented the report.

Mr. D. W. PATTERSON. The Chair did not so announce.

Mr. HAY. I ask the Chair to state whether I am not correct.

The PRESIDENT. The Chair certainly did announce that reports of committees were in order; but the Chair thinks as the rule was afterward suspended, and resolutions were received, that the resolution of the gentleman from Lancaster had perhaps better be received.

Mr. D. W. PATTERSON. That has been our practice frequently.

The PRESIDENT. The Chair did not desire to cut off gentlemen who wished to offer resolutions.

Mr. D. W. PATTERSON. My resolution is as follows:

Resolved, That section three of article No. 8 on Suffrage and Elections, be submitted to the people to be voted upon separately, and be so placed on the ballot provided by the ordinance.

The section referred to changes the time of holding the township elections, to which I am utterly opposed.

The PRESIDENT. What shall be done with the resolution?

Mr. D. W. PATTERSON. I move to proceed to its second reading and consideration.

Mr. SIMPSON. On that motion I call for the yeas and nays.

Mr. D. W. PATTERSON. I second the call.

The yeas and nays were taken and were as follows:

Y E A S .

Messrs. Addicks, Ainey, Alricks, Barclay, Bardsley, Carey, Fell Patterson, D. W., Reynolds, Simpson and White, Harry—11.

N A Y S .

Messrs. Andrews, Armstrong, Baer, Baily, (Perry,) Balley, (Huntingdon,) Bannan, Barr, Beebe, Biddle, Bigler, Black, Bowman, Boyd, Brodhead, Brown, Buckalew, Bullitt, Campbell, Clark, Cochran, Corbett, Cronmiller, Curry, Curtin, Cuyler, Darlington, Davis, De France, Dunning, Edwards, Elliott, Ellis, Ewing, Funck, Gibson, Gilpin, Guthrie, Harvey, Hay, Hazard, Hemphill, Heverin, Horton, Howard, Kaine, Landis, Lawrence, Lilly, Littleton, MacConnell, M'Camant, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Minor, Mott, Newlin, Niles, Pal-

mer, G. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Purviance, Jno. N., Read, John R., Reed, Andrew, Ross, Runk, Russell, Sharpe, Smith, H. G., Smith, H. W., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Van Reed, Wetherill, J. M., Wherry, White, D. N., Woodward Worrell, Wright and Walker, *President*—88.

So the question was determined in the negative.

ABSENT.—Messrs. Achenbach, Baker, Bartholomew, Broomall, Calvin, Carter, Cassidy, Church, Collins, Corson, Craig, Dallas, Dodd, Finney, Fulton, Green, Hall, Hanna, Hunsicker, Knight, Lambertson, Lear, Long, MacVeagh, M'Michael, Metzger, Mitchell, Palmer, H. W., Parsons, Purviance, S. A., Rooke, Stewart, Wetherill, Jno. Price and White, J. W. F.—84.

THE SCHEDULE.

Mr. LAWRENCE. I move that the Convention proceed to the third reading of the Schedule.

Mr. DARLINGTON. Resolutions are in order. I have a resolution to offer.

Mr. BARCLAY. I have a resolution to offer.

The PRESIDENT. The delegate from Washington moves to proceed to the third reading of the article on Schedule.

Mr. D. W. PATTERSON. I call for the orders of the day.

Mr. LAWRENCE. I move to suspend the orders of the day, in order to proceed to the third reading of the Schedule.

The PRESIDENT. The delegate from Washington moves to suspend the orders of the day in order to proceed to the third reading of the Schedule.

Mr. LAWRENCE. That is the question, and is not debatable.

Mr. AINEY. That requires a two-thirds vote, as I understand.

Mr. D. W. PATTERSON. Is the question debatable.

Mr. LAWRENCE. I protest against debate. It is not debatable.

The PRESIDENT. It is not debatable.

Mr. D. W. PATTERSON. The majority should not deny the minority the right to be heard.

Mr. MANN. I call the gentleman to order.

Mr. ROYD. I call call for the yeas and nays on this motion.

Mr. LAWRENCE. I second the call. The CLERK proceeded to call the roll.

Mr. LAWRENCE. Some gentlemen do not understand the motion. I made a motion to suspend the rules in order that we might take up the Schedule on third reading.

The PRESIDENT. That is the question.

Mr. D. W. PATTERSON. I rise to a question of order.

Mr. HARRY WHITE. Let us comply with the act of Assembly.

Mr. D. W. PATTERSON. I called for the orders of the day and before the motion of the gentleman from Washington was made, and he made it after I called for the orders of the day. Does not the Chair hold that the orders are still existing?

Mr. LAWRENCE. I moved to suspend the order.

The PRESIDENT. The motion is to suspend the orders. The Clerk will proceed with the call.

The CLERK resumed and concluded the call of the yeas and nays, which resulted as follow :

Y E A S .

Messrs. Addicks, Alricks, Andrews, Armstrong, Baer, Baker, Bardsley, Barr, Beebe, Biddle, Bigler, Black, Bowman, Boyd, Brodhead, Brown, Calvin, Campbell, Carey, Cassidy, Cochran, Corbett, Curry, Curtin, Cuyler, Dallas, Davis, De France, Dunning, Edwards, Elliott, Ellis, Ewing, Guthrie, Harvey, Hay, Heverin, Horton, Kaine, Lambertson, Lawrence, Lear, Lilly, Littleton, MacConnell, M'Camant, M'Clean, M'Murray, Mann, Minor, Mott, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Purviance, Jno. N., Read, John R., Reed, Andrew, Reynolds, Ross, Runk, Russell, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price, Wherry, Woodward, Worrell, Wright and Walker, *President*—80.

N A Y S .

Messrs. Ainey, Baily, (Perry,) Bailey, (Huntingdon,) Barclay, Cronmiller, Darlington, Funck, Gibson, Gilpin, Hemphill, Howard, Landis, M'Culloch, Mantor, Patterson, D. W., Rooke, Simpson, Stanton, Struthers, Temple, White, David N. and White, Harry—22.

So the motion was agreed to.

ABSENT—Messrs. Achenbach, Bannan, Bartholomew, Broomall, Buckalew, Bullitt, Carter, Church, Clark, Collins, Cor-

son, Craig, Dodd, Fell, Finney, Fulton Green, Hall, Hanna, Hazzard, Hunsicker, Knight, Long, MacVeagh, M'Michael, Metzger, Mitchell, Parsons, Purviance, Samuel A., Stewart and White, J. W. F.—31.

The PRESIDENT. The rules are suspended.

Mr. D. W. PATTERSON. (At eleven o'clock and fifty minutes, A. M.) Mr. President: I move to adjourn, and call for the yeas and nays on it, since the majority have trampled on their own rules.

Mr. BOYD. I trust the gentleman will not scare anybody.

The PRESIDENT. The gentleman from Lancaster moves that the Convention do now adjourn.

Mr. D. W. PATTERSON. I called for the yeas and nays.

The PRESIDENT. Who seconded the call?

Mr. BARCLAY. I second the call.

Mr. BRODHEAD. I suggest that the gentleman from Lancaster have perpetual leave of absence. [Laughter.]

The PRESIDENT. The question is on the motion of the gentleman from Lancaster. We can stand it if he can. The Clerk will call the names of delegates on the motion to adjourn.

The yeas and nays were taken, and were as follows:

Y E A S .

Messrs. Ainey, Baker, Barclay, Cassidy, Patterson, D. W., Reynolds, Rooke, Simpson and Smith, Henry W.—9.

N A Y S .

Messrs. Achenbach, Addicks, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Bardsley, Barr, Beebe, Biddle, Black, Bowman, Boyd, Brodhead, Brown, Bullitt, Calvin, Campbell, Carey, Clark, Cochran, Cronmiller, Curtin, Cuyler, Darlington, Davis, De France, Dunning, Edwards, Elliott, Ellis, Ewing, Fell, Funck, Gibson, Gilpin, Guthrie, Harvey, Hay, Hazzard, Hemphill, Heverin, Horton, Howard, Knight, Lambertson, Landis, Lawrence, Lilly, Littleton, MacConnell, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Minor, Palmer, G. W., Palmer, H. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Purviance, John N., Reed, Andrew, Ross, Runk, Russell, Sharpe, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Van Reed, Wetherill, J. M., Wetherill, John

Price, Wherry, White, David N., Woodward, Wright and Walker, *President*—87.

So the motion was not agreed to.

ABSENT.—Messrs. Bartholomew, Bigler, Broomall, Buckalew, Carter, Church, Collins, Corbett, Corson, Craig, Curry, Dallas, Dodd, Finney, Fulton, Green, Hall, Hanna, Hunsicker, Kaine, Lear, Long, MacVeagh, M'Camant, M'Michael, Metzger, Mitchell, Mott, Newlin, Niles, Parsons, Purviance, Samuel A., Read, John R., Stewart, White, Harry, White, J. W. F. and Worrell—87.

Mr. LAWRENCE. Now I renew my motion to proceed to the third reading of the article on Schedule.

The motion was agreed to.

Mr. ARMSTRONG. Before we proceed to the reading of the article I would ask consent of the Convention to move that we take a recess from one to two o'clock and five to seven, and that the evening session be unlimited.

Mr. AINEY. I object to that.

Mr. D. W. PATTERSON. Let us have no evening session to-day.

The PRESIDENT. Will the Convention permit the delegate from Lycoming to make a motion?

The question being put, the Chair declared that the ayes appeared to have it.

Mr. AINEY. I rise to a point of order. Is it competent to suspend the rules without a two-thirds vote?

The PRESIDENT. No, sir.

Mr. AINEY. I call for the yeas and nays.

Mr. LAWRENCE. I hope the gentleman will withdraw the motion.

Mr. ARMSTRONG. I withdraw my motion.

The PRESIDENT. The motion is withdrawn. The Schedule is under consideration on third reading. It will be read.

The CLERK read the Schedule at length, as follows:

SCHEDULE.

That no inconvenience may arise from the changes in the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is hereby declared, that:

SECTION 1. This Constitution, if adopted, shall take effect on the first day of January, 1874, for all purposes not otherwise provided therein.

SECTION 2. All laws in force in this Commonwealth at the time of the adoption of this Constitution, not inconsistent

therewith, and all rights, actions, prosecutions and contracts shall continue as if the Constitution had not been adopted.

SENATORS AND REPRESENTATIVES.

SECTION 3. At the general election in the years 1874 and 1875, Senators shall be elected in all districts where there shall be vacancies. Those elected in 1874 shall serve for two years, and those elected in 1875 shall serve for one year. Senators now elected and those whose terms are unexpired shall represent the districts in which they reside until the end of the term for which they were elected.

SECTION 4. At the general election in 1876, Senators shall be elected from even numbered districts to serve for two years, and from odd numbered districts to serve for four years.

EXECUTIVE AND OTHER STATE OFFICERS.

SECTION 5. The first election of Governor under this Constitution shall be at the general election of 1875, when a Governor shall be elected for three years, and the term of the Governor elected in 1878 and those thereafter elected shall be for four years, according to the provisions of this Constitution.

SECTION 6. At the general election in 1874, a Lieutenant Governor shall be elected according to the provisions of this Constitution.

SECTION 7. The Secretary of Internal Affairs shall be elected at the first general election after the adoption of this Constitution, and when the said officer is duly elected and qualified the office of Surveyor General shall be abolished, and the Surveyor General in office at the time of the adoption of this Constitution shall continue in office until his said present office shall be abolished, and no longer.

SECTION 8. When the Superintendent of Public Instruction shall be duly qualified, the office of Superintendent of Common Schools shall cease.

SECTION 9. Nothing contained in this Constitution shall be construed to render any person now holding any State office for a first official term ineligible for re-election at the end of such term.

JUDICIARY.

SECTION 10. The Judges of the Supreme Court who shall be in office when this Constitution shall take effect, shall continue until their commissions shall severally expire. Two judges in addition to the number now comprising the said court shall be elected at the first general

election after the adoption of this Constitution.

SECTION 11. All courts of record and all existing courts which are not specified in this Constitution shall continue in existence until the first day of December, 1875, without abridgement of their present jurisdiction, but no longer, except the court of first criminal jurisdiction for the counties of Schuylkill, Lebanon and Dauphin, which is hereby abolished.

SECTION 12. The registers' courts now in existence shall be abolished on the first day of January next succeeding the adoption of this Constitution.

SECTION 13. The General Assembly shall, at the next session after the adoption of this Constitution, designate the several judicial districts as required by this Constitution. The judges in commission when such designation shall be made shall continue during their unexpired terms judges of the new districts in which they reside.

SECTION 14. The General Assembly shall, at the next succeeding session after each decennial census, and not oftener, designate the several judicial districts as required by this Constitution.

SECTION 15. Judges learned in the law of any court of record holding commissions in force at the adoption of this Constitution, shall hold their respective offices until the expiration of the terms for which they were elected and commissioned, and until their successors are duly qualified. The Governor shall commission the president judge of the court of first criminal jurisdiction for the counties of Schuylkill, Lebanon and Dauphin, as a judge of the court of common pleas of Schuylkill county, for the unexpired time of his office.

SECTION 16. After the expiration of the term of any president judge of any court of common pleas in commission at the adoption of this Constitution, the judge of such court learned in the law and oldest in commission shall be the president judge thereof, and when two or more judges are elected at the same time in any judicial district, they shall decide by lot which shall be president judge; but when the president judge of a court shall be re-elected he shall continue the president judge of that court. Associate judges not learned in the law, elected after the adoption of this Constitution, shall be commissioned to hold their office for

the term of five years from the first day of January after their election.

SECTION 17. The General Assembly at the first session after the adoption of this Constitution, shall fix and determine the compensation of the judges of the Supreme Court, and of the several judicial districts of the Commonwealth, and the provisions of the fifteenth section of the article on Legislation shall not be deemed inconsistent herewith. Nothing contained in this Constitution shall be held to reduce the compensation now paid to any law judge of this Commonwealth.

COURTS OF PHILADELPHIA AND ALLEGHENY.

SECTION 18. The courts of common pleas in the counties of Philadelphia and Allegheny, shall be composed of the present judges of the district court and court of common pleas of said counties until their commissions shall severally expire, and of such other judges as may from time to time be selected.

For the purpose of first organization in Philadelphia, the judges of the court number *One* shall be judges Allison, Peirce and Paxson; of the court number *Two*, judges Hare, Mitchell and one other judge to be elected; of the court number *Three*, judges Ludlow, Finletter and Lynd; and of the court number *Four*, judges Thayer, Briggs and one other judge to be elected.

The judge first named shall be president judge of said court respectively, and thereafter the president judge shall be the judge oldest in commission; but any president judge, &c., elected in the same court or district shall continue to be president judge thereof.

The additional judges of courts numbers *Two* and *Four* shall be voted for and elected at the first general election after the adoption of this Constitution, in the same manner as the two additional judges of the Supreme Court, and they shall decide by lot to which court they shall belong. Their term of office shall commence on the first Monday of January, 1875.

SECTION 19. In the county of Allegheny, for the purpose of first organization, under this Constitution, the judges of the court of common pleas at the time of the adoption of this Constitution shall be the judges of the court number *One*, and the judges of the district Court at the same date shall be the judges of the common pleas number *Two*.

The president judge of the common pleas and district court shall be president judge of said courts number *One* and *Two*, respectively, until their commissions shall expire; and thereafter the judge oldest in commission shall be president judge; but any president judge re-elected in the same court or district, shall continue to be president judge thereof.

SECTION 20. The organization of the court of common pleas under this Constitution, for the counties of Philadelphia and Allegheny, shall take effect on the first Monday of January, 1875, and existing courts in said counties shall continue with their present powers and jurisdiction until that date, but no new suits shall be instituted in the courts of *nisi prius* after the adoption of this Constitution.

SECTION 21. The causes and proceedings pending in the court of *nisi prius*, common pleas and district court in Philadelphia, shall be tried and disposed of in the court of common pleas.

The records and dockets of said courts shall be transferred to the prothonotary's office of said county.

SECTION 22. The causes and proceedings pending in the court of common pleas in the county of Allegheny, shall be tried and disposed of in the court number *One*; and the causes and proceedings pending in the district court shall be tried and disposed of in the court number *Two*.

SECTION 23. The prothonotary of the court of common pleas of Philadelphia shall be first appointed by the judges of said court, on the first Monday of December, 1875, and the present prothonotary of the district court in said county shall be the prothonotary of the said court of common pleas until said date, when his commission shall expire, and the present clerk of the court of oyer and terminer and quarter sessions of the peace in Philadelphia shall be the clerk of such court until the expiration of his present commission on the first Monday of December, 1875.

ALDERMEN AND "MAGISTRATES."

SECTION 24. In cities containing over fifty thousand inhabitants (except Philadelphia) all aldermen in office at the time of the adoption of this Constitution shall continue in office until the expiration of their commissions, and at the election for city and ward officers in the year 1875, one alderman shall be elected in

each ward as provided in this Constitution.

SECTION 25. In Philadelphia, "magistrates" in lieu of aldermen, to be elected under this Constitution, shall be chosen at the election in said city for city and ward officers in the year 1875; their term of office shall commence on the first Monday of April succeeding their election.

The term of office of aldermen in said city, holding or entitled to commissions at the time of the adoption of this Constitution, shall not be affected thereby.

GENERAL PROVISIONS.

SECTION 26. All persons in office in this Commonwealth at the time of the adoption of this Constitution, and at the first election under it, shall hold their respective offices until the term for which they have been elected or appointed shall expire, and until their successors shall be duly qualified, unless otherwise provided in this Constitution.

SECTION 27. The seventh article of this Constitution, prescribing an oath of office, shall take effect on and after the first day of January, 1875.

SECTION 28. The terms of office of county commissioners and county auditors chosen prior to 1875, which shall not have expired before the first Monday of January, 1876, shall expire on that day.

SECTION 29. All State, county, city, ward, borough and township officers in office at the time of the adoption of this Constitution, whose compensation is not provided for by salaries alone, shall continue to receive the compensation allowed them by law, until the expiration of their respective terms of office.

SECTION 30. All State and judicial officers heretofore elected, sworn, affirmed, or in office when this Constitution shall take effect, shall severally, within one month after such adoption, take and subscribe an oath (or affirmation) to support this Constitution.

SECTION 31. The General Assembly, at its first session, or as soon as may be after the adoption of this Constitution, shall pass such laws as may be necessary to carry the same into full force and effect.

Mr. ARMSTRONG. I move to go into committee of the whole for the purpose of adding the following as section thirty-two, unless it be agreed to by common consent:

"The ordinance passed by this Convention, entitled 'An Ordinance for submitting the amended Constitution of Penn-

sylvania to a vote of the electors thereof, shall be held to be valid."

Mr. LAWRENCE. I hope that will be agreed to by common consent, to preclude the necessity of going into committee of the whole.

Mr. ARMSTRONG. I have no objection to adding the words "for all the purposes thereof," which the gentleman from Columbia (Mr. Buckalew) suggests, though I do not think they are necessary.

The PRESIDENT. The question is on the motion of the delegate from Lycoming.

Mr. HARRY WHITE. I shall not call for the yeas and nays on this motion, though I do not think it is competent for us to pass such an amendment, but I merely desire to enter my protest on the record against it. If the yeas and nays are called, I shall vote against it.

Mr. AINEY. I call for the yeas and nays.

Mr. HARRY WHITE. I second the call. The yeas and nays were taken and resulted as follow:

YEAS.

Messrs. Addicks, Alricks, Andrews, Armstrong, Baer, Bally, (Perry,) Bailey, (Huntingdon,) Bannan, Bardsley, Barr, Beebe, Bigler, Bowman, Boyd, Brodhead, Brown, Buckalew, Calvin, Campbell, Carey, Cassidy, Church, Cochran, Cronmiller, Cuyler, Dallas, Darlington, De France, Dunning, Ellis, Finney, Gilpin, Guthrie, Hazzard, Heverin, Horton, Howard, Kaine, Lambertson, Landis, Lawrence, Lear, Lilly, M'Clean, M'Murray, Mann, Mantor, Palmer, H. W., Patterson, T. H. B., Patton, Pughe, Purman, Purviance, John N., Reed, Andrew, Ross, Runk, Russell, Sharpe, Smith, H. G., Smith, Wm. H., Struthers, Temple, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price, Wherry, White, David N., Wright and Walker, *President*—70.

NAYS.

Messrs. Ainey, Baker, Edwards, Ewing, Funck, Knight, MacConnell, M'Culloch, M'Michael, Newlin, Reynolds, Rooke, Simpson, Smith, Henry W., Stanton and White, Harry—16.

So the motion was agreed to.

ABSENT.—Messrs. Achenbach, Barclay, Bartholomew, Biddle, Black, Broomall, Bullitt, Carter, Clark, Collins, Corbett, Corson, Craig, Curry, Curtin, Davis, Dodd, Elliott, Fell, Fulton, Gibson, Green,

Hall, Hanna, Harvey, Hay, Hemphill, Hunsicker, Littleton, Long, MacVeagh, M'Camant, Metzger, Minor, Mitchell, Mott, Niles, Palmer, G. W., Parsons, Patterson, D. W., Porter, Purviance, Samuel A., Read, John R., Stewart, White, J. W. F., Woodward and Worrell—47.

The Convention accordingly resolved itself into committee of the whole, Mr. John Price Wetherill in the Chair.

The CHAIRMAN. The committee of the whole have had referred to them the Schedule with instructions to insert the following as a new section: "The ordinance passed by this Convention, entitled 'An ordinance for submitting the amended Constitution Pennsylvania to a vote of the electors thereof, shall be held to be valid for all the purposes thereof.' The section will be inserted.

The committee rose, and the President having resumed the Chair, the Chairman (Mr. John Price Wetherill) reported that the committee of the whole had made the amendment referred to them.

Mr. DARLINGTON. I move that the Convention resolve itself into committee of the whole for the purpose of striking out the third and fourth sections and inserting the following in lieu thereof:

"The General Assembly of 1874 shall divide the State into fifty senatorial districts, as provided in the article on the Legislature, numbered consecutively, and Senators shall be elected therein at the general election in 1874, from even numbered districts to serve two years, and from odd numbered districts to serve four years."

This presents the question distinctly whether under this Constitution, we shall have an election for Senators at the first practicable moment, or string them along for two or three years, and then make them even. Now, sir, I am in favor of making clean work. The Senators in office at present will not represent the counties that they now represent, after the adoption of this Constitution, and in many cases it will be probable that Senators may reside, two or more, in one district. You cannot put the new Constitution in operation without leaving somebody out of office at some time. When the amendment of 1850 was adopted with regard to the mode of electing judges, all the judges of the Supreme Court then in office were allowed to go out, and an election for five judges took place at that time.

Mr. BOYD. It was a gross outrage.

Mr. DARLINGTON. The gentlemen says it was a gross outrage. Sir, no man has a right to an office a moment longer than the public want him. He seeks the office, and not the office him; and especially is this the case with legislators, and there is no propriety whatever in continuing those gentlemen who were elected under the old Constitution for a minute longer than is necessary to elect others under the new. The advantage of this proposition is, that inasmuch as we change the number of Senators from thirty-three to fifty, and the time of their service is also changed, by having them all out and putting them all in again; you can divide the State into districts at once. There is nothing wrong in this, because competent and good officers already elected may be candidates for re-election, and no doubt many of them will be, and we shall not be deprived of their services under the new Constitution. I think this is the best and fairest plan, and I hope it will receive the favorable action of the Convention.

Mr. HARRY WHITE. Mr. President:—

SEVERAL DELEGATES. Let us vote.

Mr. HARRY WHITE. Very well; if gentlemen will vote down this motion, I do not care to say anything.

The motion was not agreed to.

Mr. CALVIN. I move to go into committee of the whole for the purpose of adding the following amendment:

"That the election of Lieutenant Governor, Secretary of Internal Affairs, and the two judges of the Supreme Court shall take place at the same time that the vote is to be taken on the adoption or rejection of the Constitution."

I do not desire to argue this question again; it has been already pretty fully discussed; but I consider this amendment so important that I have thought it my duty to offer it on third reading. To those members of the Convention who are not in favor of the adoption of this Constitution, of course my arguments will not apply; but to all those who desire that this Constitution shall be adopted by the people, I think this proposition ought to commend itself. It is perfectly manifest that if we submit the election of those officers at the same time that we do the question of the adoption of this Constitution, we shall not only have a large vote out, but we shall have both parties supporting the Constitution, and we shall

thoroughly emasculate the rings and cliques. If this Constitution shall be defeated, it will be defeated by the rings, by the politicians.

Mr. LAWRENCE. I rise to a question of order. This amendment is not in order to the third section. The Chair will see that it has no connection with it. It refers to a different matter entirely.

Mr. CALVIN. It is in lieu of sections six and seven.

Mr. LAWRENCE. I thought it was offered to the third section. I withdraw the objection.

The PRESIDENT. The delegate from Blair will proceed.

Mr. CALVIN. It will also, if adopted, necessitate a slight modification of section ten.

Now what I have to say is this: if we desire the Constitution to be ratified, (and there are those in this Convention who do not,) let us adopt this proposition, and it secures the adoption of the Constitution beyond all doubt or controversy, because, as I have just said, it will secure the support of both parties; it will bring out the people; and it will thoroughly emasculate the rings. If this Constitution shall be defeated, it will be defeated by the politicians and corporations. We have been told that in this city, unless we succeed in preventing it by our commission, this Constitution will get a black eye to the tune of fifty thousand. And when the politicians in the country, those gentlemen who have heretofore been kindly making nominations for the people, come to examine this Constitution, they will see that their occupation, like Othello's, will be gone, and consequently they will, one and all of them, oppose it. But let us have these officers elected at this time and you thoroughly neutralize, emasculate them; they will be bound to support the candidates of their several parties; and it appears to me that the result is absolutely certain.

What objection can there be to it? It has been urged here that we have not yet created these offices. They will be created if this Constitution is adopted, and if this Constitution is not adopted the gentlemen thus elected will not get their offices. We shall not be doing anybody any prejudices.

We have any amount of precedent for this proceeding. We have the precedent of West Virginia, the precedent of Illinois, and we have the precedent of almost

every new State which has been introduced into the Union for many years past. When they came to Washington with their State Constitution, they always appeared there with their Congressmen and their Senators.

I hope this Convention will adopt this proposition and then we may give ourselves no anxiety about the adoption of this Constitution; it will be adopted beyond all doubt.

Mr. HAY. I have said heretofore that I was in favor of the election of Lieutenant Governor at the election for the adoption or rejection of this instrument, and I would vote now for that provision; but as this includes also the election of judges of the Supreme Court, I shall vote against it. I believe it proper to elect a Lieutenant Governor at that time for, among other reasons, this: that is a new office, and as we think it necessary to create a new office, I see no reason why that new office should not begin with the Constitution. The provision for judges of the Supreme Court is under the clause for an increase of that body and we can do very well for the present without that increase.

Mr. CALVIN. I will agree to strike all out excepting, first, the question of Lieutenant Governor. After that is disposed of, if it is disposed of favorably, then I will ask a vote on the question in relation to the Secretary of Internal Affairs and after that on the election of judges of the Supreme Court, so that there may be no complication.

Mr. CUYLER. I am opposed to the proposition, either in its original or in its amended form. This Convention was not called together for the purpose of enticing or persuading the people of the State to vote for the instrument they create by any other arguments than fair perusal and understanding of the subject itself. We were called together to make a Constitution, not to electioneer for its adoption afterward. If our work is not such that by its intrinsic merit it commends itself to the favorable consideration of the people, it were far better that it fall entire. I am opposed to any electioneering art or device or trick of any kind to induce the people to vote for it. Let it stand or let it fall purely and simply on its merits. It seems to me that all such propositions are very far below the dignity of the Convention. Let us carry ourselves in a dignified manner all the way through—adopt an instrument, ex-

plain it, and let the people decide on their own judgment whether they will approve it afterward or not.

Mr. HAY. I desire to inquire of the delegate from Philadelphia who has just spoken whether it is not a fact that this same course has been adopted repeatedly heretofore in the history of the country, and whether officials, whose offices have been created by the instrument itself, have not been voted for when the Constitution was submitted to the people.

Mr. CUYLER. Because other people have behaved in an undignified way is no reason why we should do so also.

Mr. COCHRAN. Mr. President: I do not want to discuss this proposition; it has been discussed before; but I do say that it is a misrepresentation of its object to say that it is an attempt to induce the people to vote for the Constitution whether they approve it or not. So far from that, the only object of this proposition is to bring out the vote of the people so that they may give their suffrage on the Constitution as they prefer.

I have before shown by the history of past events, that the difficulty is to get the popular vote polled, and it is not for the purpose of inducing the people to vote for or against this Constitution that the proposition was made; but it is simply for the purpose of getting a full expression of the people on the subject of the Constitution. And, sir, it is not beneath the dignity of this body to ask the people to vote for or against the Constitution. It is simply to give them an inducement to come and vote, not that they shall vote this way or that way; and, sir, the friends of this Constitution, not those who will oppose it, are those who are in favor of this proposition. I do not say that every friend of this Constitution is in favor of this; but I say that every man who is against the Constitution is against this proposition. I do not think that all those who are opposed to this proposition are enemies of the Constitution.

Mr. MANN. Mr. President: It is of importance to secure the attendance of the people at the polls. We have deemed that object of so much importance that the Convention itself has ordered the appointment, first, of a committee of thirty-three, one from each senatorial district, and then of an executive committee for the very purpose of securing the attendance of the people at the polls. Is

that undignified? If it is, let us rescind the appointment of that committee, and say we will just submit this work to the people and then pay no more attention to it. That is not the purpose of the Convention. They have already decided that it will be proper and dignified to secure the attention of the people to it, and induce them to come to the polls, and take the proper steps to secure that object by the appointment of a committee.

Gentlemen of the Convention, the adoption of the amendment now offered will be worth more than all the committees you can appoint to bring the people out, more than the expenditure of twenty thousand dollars in money to circulate documents. Why then shall we hesitate? I repeat the assertion of the gentleman from York that every man who votes for this proposition is earnestly and anxiously in favor of the adoption of this Constitution. I will not say the converse of that proposition. I only say that it strikes the common sense of every man who reads it as a proposition to secure the attendance of the people at the polls, that is all; and we have the utmost confidence that if the people come to the polls and vote, a majority of them will vote for this Constitution.

Mr. BIDDLE. When this proposition was first mooted it struck me very favorably, and I confess if I had been called upon to vote without hearing the debate I should have cast my vote for it; but I have changed my original opinion and I wish to state why.

I think this Constitution ought to be put before the people upon its own merits. I do not think it wants any assistance like this. It may be that thereby you will be enabled to call out a larger vote; but I wish gentlemen to bear in mind that in one section, and a very important section of the State, the city of Philadelphia, we have provided for an exceptional mode of election. Although I voted for that exceptional mode of election very cordially, under the language of the act of Assembly authorizing us to provide the means for carrying the election into effect, I do not think that contemplated the election of any officers under it. And while I can feel the force of the argument that it may bring out a larger vote, I am not willing to do anything by what appears to me at least, (I charge no such motive on others,) an indirection. I do not think the people of Phila-

delphia would be prepared to vote for any officers under this Constitution under a mode of election different from that to which they have heretofore been accustomed.

I do not wish to be at all misunderstood about this. I think the mode of election under which they have been constrained to vote for the last five or six years is radically wrong, because it is exceptional to the mode of voting in the rest of the State, but nevertheless it is the existing system, and so long as we have a system by which we are called upon to elect officers, I do not want to depart from it. It strikes me that the possible good we may attain in the way which has been pointed out by the gentleman from York and the gentleman from Potter is more than counterbalanced by the evil which would flow from attempting to elect these officers under a mode of selection, so far as our community is concerned, which is altogether exceptional and only applicable to bringing the Constitution itself before the people of that portion of the State.

Mr. KANE. Much has been said, Mr. President, upon this question by the gentleman from York and some others to show that this is necessary for the purpose of bringing out the people to vote on the Constitution, and he has referred over and over again to the vote upon the Constitution of 1838. It must be remembered by that gentleman and by other members of this Convention that amendments to our present Constitution were before the people in 1864, and they were voted on on the first Tuesday of August of that year, in the midst of harvest, and there were but three of them, three separate and distinct propositions. One was to allow the soldiers in the service of the country to vote; another was, that all bills before the Legislature should contain but one single, solitary subject, which should be clearly expressed in the title; the other was that the Legislature should pass no law where the courts had power to act in the premises then or thereafter. Those were the three simple amendments which were put before the people in the midst of harvest in 1864, and on them there were polled three hundred and five thousand three hundred and eleven votes. If that many votes are polled on the third Tuesday of December now, and I have no doubt there will be a great many more than that, I have no question that this Constitution

will be adopted by one hundred thousand majority at least. There is no time to hold Conventions to make nominations, nor is it prudent or proper that such things should be done. It would abstract the minds of the people, take them away from the consideration of the real question. Let us have the Constitution before the people pure and simple, a whole Constitution, and I warrant it will have nearly a full vote. The amendments of 1864 were carried by a vote of one hundred and ninety-nine thousand nine hundred and fifty-nine against one hundred and five thousand three hundred and fifty-two, and that, as I before said, in that season of the year when the people are most busy. The time now proposed will be when the people have the least to do and are less occupied than at any other season of the year, and I fear not but that there will be a full vote out upon that occasion to vote upon this Constitution.

Mr. J. N. PURVIANCE. I am opposed to the proposition of the gentleman from Blair for the reasons given by the distinguished gentlemen from Philadelphia (Mr. Cuyler and Mr. Biddle.) I am entirely in favor of submitting this Constitution to the people on its own merits. I believe it is the best Constitution of all the Constitutions of the States of this Union.

There is, too, an objection to the election of officers at the same time that we submit the Constitution. It invites an element of opposition to the Constitution in this way: If two candidates are nominated, one by the Democratic party and the other by the Republican party, they might be gentleman of questionable integrity or questionable capacity, and then it would be an argument to vote against the whole Constitution so as to get rid of them. Therefore I take it we should be inviting an element of opposition that we ought not to incur. Let the Constitution go before the people exclusively and alone, upon its own merits, and no doubt whatever exists that it will be adopted by a large majority.

The PRESIDENT. The question is on the motion of the gentleman from Blair (Mr. Calvin.)

The motion was not agreed to, the ayes being twenty-seven, less than a majority of a quorum.

Mr. BUCKALEW. I offer the following additional section to the schedule:

"SECTION 33. The words "county commissioners," wherever used in this Constitution and in any ordinance accompanying the same, shall be held to include the commissioners for the city of Philadelphia."

This was suggested to me by a member from Philadelphia not now present.

The PRESIDENT. It is moved to go into committee of the whole for the purpose of making the amendment indicated by the gentleman from Columbia. ["Unanimous consent."] Will the Convention unanimously consent? ["Aye." "Aye."] The amendment will be made.

Mr. DARLINGTON. I move to amend in the seventh section by striking out the words "the said officer is duly," in the second line, and all after the word "abolished" in the third line, so as to make the section read:

"The Secretary of Internal Affairs shall be elected at the first general election after the adoption of this Constitution, and when elected and qualified the office of Surveyor General shall be abolished."

It is much shorter and expresses the whole idea. I ask unanimous consent to make the change.

Mr. D. W. PATTERSON. I do not consent. The trouble is it does not continue the present office until the new officer takes his seat.

Mr. DARLINGTON. Oh yes; he shall be elected at the first general election.

Mr. D. W. PATTERSON. The object is to continue the present officer in office until the new officer takes his place.

Mr. DARLINGTON. There is no trouble about that; that follows as a matter of course.

The PRESIDENT. The delegate from Chester moves to go into committee of the whole to make the amendment he has indicated.

Mr. MANN. If that amendment is carried, we cut off one year of the office of the present Surveyor General. To that I am opposed and I hope it will not be carried. We have not turned any other officer out of office; I do not know why we should turn this one out.

Mr. HARRY WHITE. I hope the words will not be stricken out. The term of office of the Surveyor General will not expire until the first day of May.

Mr. CURTIN. That is a sufficient reason.

The PRESIDENT. The question is on the motion of the delegate from Chester

The motion was not agreed to.

Mr. D. W. PATTERSON. I offer this as an additional section to come in as section thirty-four.

"In case this Constitution be ratified by the people, the existing Constitution shall cease in all its provisions." [Laughter.]

Mr. President: I find this clause in almost every Constitution of this Union.

Mr. WOODWARD. I beg leave to ask my learned friend a question. Did my learned friend ever learn the maxim, *Leges posteriores priores contrarias abrogant*? [Laughter.]

Mr. D. W. PATTERSON. I have seen that maxim. I suppose from the temper of the House I might as well withdraw my proposition, and I do so.

Mr. D. N. WHITE. I move that the House take a recess until two o'clock.

The motion was not agreed to.

Mr. ARMSTRONG. I move to amend in the thirteenth section by adding at the end thereof the following, which I will explain to the Convention in a word:

"But when there shall be two judges residing in the same district, the president judge shall elect to which district he shall be assigned, and the additional law judge shall be assigned to the other district."

It is for the purpose of meeting a case which exists in the Commonwealth, and possibly others which we do not know of, and to obviate a practical difficulty.

The PRESIDENT. The question is on going into committee of the whole to make this amendment.

The motion was agreed to.

Mr. ARMSTRONG. I hope now by unanimous consent the amendment will be made.

The PRESIDENT. Will the Convention unanimously consent? ["Aye!" "Aye!"] The amendment will be made.

Mr. ARMSTRONG. I desire now to move a few verbal corrections. I propose to strike out in the first section, first line, the words "if adopted," as being wholly unnecessary. Also in the second section to strike out in the second line the words "not inconsistent therewith," and insert the same words after the word "contracts" at the end of the same line, in order to make the exception cover both the laws and the rights of action. In the twelfth line of the eighteenth section, strike out "&c." and insert "re." It is an evident misprint. It should read "re-elected." "Etc." has no meaning in that connection.

Mr. COCHRAN. Just at this point I would respectfully call the attention of the gentleman from Lycoming to what I conceive to be the absence of all necessity for that second clause. It says:

"But any president judge re-elected in the same court or district shall continue to be president judge thereof.

The sixteenth section says:

"But when the president judge of a court shall be re-elected he shall continue the president judge of that court."

What is the necessity of having both those clauses?

Mr. ARMSTRONG. Section eighteen has specific reference to the city of Philadelphia and the county of Allegheny and it was for the purpose of certainty. It was thought to be better to insert it in both places.

Mr. CUYLER. I think that is an unfortunate provision. I do not know whether this is the time for striking it out. It takes away a stimulus which ought not to be taken away.

The PRESIDENT. Do the Convention understand the proposed amendments and agree to them?

Mr. D. W. PATTERSON. I object to striking out "if adopted."

Mr. DARLINGTON. I do not think the proposed change should be made in the second section.

The PRESIDENT. The first proposed amendment is to strike out the words "if adopted" in the first section, first line.

Mr. D. W. PATTERSON. I object to that.

The PRESIDENT. The question is on the amendment.

The amendment was agreed to.

The PRESIDENT. The next amendment is in the second section, after the word "Constitution," to strike out "not inconsistent therewith," and add at the end of the line the words "not inconsistent therewith."

Mr. D. W. PATTERSON. I called for the yeas and nays, because I do not believe we have power to prescribe a Constitution until it is adopted by the people. I should like the President to rule whether I made the call in time.

The PRESIDENT. The point is decided. I have decided that the House has agreed to strike out those words.

Mr. D. W. PATTERSON. I objected. It was not unanimous consent. I hold that: it has not passed this Convention.

The PRESIDENT. The gentleman will take his seat.

Mr. D. W. PATTERSON. I hold that it has not passed this Convention by unanimous consent.

The PRESIDENT. The second amendment of the gentleman from Lycoming will be read.

The CLERK. The second amendment is to strike out after the word "Constitution" in the second line of the second section the words "not inconsistent therewith," and to add the same words at the end of the line after the word "contracts."

Mr. DARLINGTON. I think those words, "not inconsistent therewith," as they stand in the text have a meaning that was intended by the Convention, and that is that all laws in force in this Commonwealth when the Constitution is adopted, not inconsistent therewith, should be preserved. Now to transfer the words to the end of the line is merely to say that all rights, prosecutions and contracts not inconsistent with this Constitution shall be preserved. That is not what is meant at all.

Mr. ARMSTRONG. I withdraw that amendment.

The PRESIDENT. The amendment is withdrawn.

Mr. ARMSTRONG. In the twenty-fifth section, I move to strike out in the first and second lines the words "to be elected under this Constitution," and insert after the word "chosen" in the second line the words "as required by this Constitution."

The PRESIDENT. Will the Convention unanimously agree to that amendment? ["Aye." "Aye."] It is agreed to.

Mr. J. N. PURVIANCE. I move that the Convention take a recess until half-past two o'clock.

The motion was not agreed to.

Mr. STRUTHERS. I move to amend the Schedule by adding the following as a new section:

"All the provisions of the present Constitution not altered or supplied by the provisions of this amended Constitution, shall remain in full force."

The PRESIDENT. The question is on the motion to go into committee of the whole to add this proposed section.

Mr. STRUTHERS. It seems to me that we have a very excellent old Constitution now on hand and it may be possible that some of the provisions of it are not fully supplied by the Constitution we are submitting, and I know no good reason why

any provision not supplied fully by the amended Constitution should not remain in force. This section is drawn to cover that. I hope therefore it will be agreed to.

The PRESIDENT. The question is on the motion of the delegate from Warren. The motion was not agreed to.

Mr. CURTIN. Now I call the attention of the Convention to the seventh section of the Schedule, which declares that the Surveyor General in office at the time of the adoption of this Constitution shall continue in office until his said present office shall be abolished, but no longer. That will take from January to May of the official term of the present Surveyor General, and I propose not to do such injustice but to make an exception. The office expires in May and we can make the office of the Secretary of Internal Affairs take effect in January.

Mr. HARRY WHITE. I do not understand it in that way.

Mr. CURTIN. Clearly it is so. I therefore propose to go into committee of the whole for the purpose of striking out the fifth line and inserting the words, "the expiration of the term for which he was elected." ["That is right!"] Let it be done by unanimous consent. ["Aye." "Aye."]

The PRESIDENT. Is unanimous consent given? ["Aye." "Aye."] It is agreed to.

Mr. DARLINGTON. I move that the Convention resolve itself into committee of the whole for the purpose of amending the seventeenth section by adding the words "now in commission" at the end thereof. I am willing that the judges now in commission shall continue to receive the amount of money they are now receiving; but I am unwilling to tie the hands of the Legislature by a provision which would probably be construed to keep up that salary, no matter how inadequate or superfluous it might be.

Mr. ARMSTRONG. I presume there is no objection to that suggestion. ["Unanimous consent."]

The PRESIDENT. Will the Convention unanimously consent to the amendment? ["Aye." "Aye."] The amendment is made, no objection being interposed.

Mr. BIDDLE. I move to go into committee of the whole for the purpose of amending the eighteenth section as follows: Strike out the word "commissions" in the third line and the word

"expire" in the same line, and insert "offices" and "end," and the same amendment in the sixth and seventh lines of the nineteenth section; and I will give my reasons.

In the fifteenth section, in order to save the one month between the first Monday of December, to which all present judges are commissioned, and the first Monday of January, on which we are asked to start under the new Constitution, we have said that judges learned in the law shall hold their offices until the expiration of the terms for which they were commissioned and until their successors are duly qualified. In the eighteenth section we have retained the old language, "the commissions shall severally expire," which will leave a gap of a month or so until the new judges are commissioned. I want to provide for that both as to the judges of Philadelphia and Allegheny in those two sections. If we make it read "until their offices shall ex.d," which will be right with reference back to the fifteenth section, it will cover that *interim*. I ask unanimous consent to have this change made.

The PRESIDENT. Will the Convention unanimously agree? ["Aye." "Aye."] It is agreed to.

Mr. BIDDLE. The same change in the sixth and seventh lines of the nineteenth section precisely, striking out "commissions" and "expire" and inserting "offices" and "end."

The PRESIDENT. Is there objection? ["None."] The amendment will be made.

Mr. DARLINGTON. I wish to call the attention of the chairman of the committee, (Mr. D. W. Patterson,) to the twenty-seventh section, which reads:

"The seventh article of this Constitution, prescribing an oath of office shall take effect on and after the first day of January, 1875." I think we fixed it at 1874. ["No."]

Mr. BUCKALEW. No, it cannot be taken by men now in office or those already elected.

Mr. D. W. PATTERSON. We extended it one year further on.

Mr. DARLINGTON. Very well. I now move to reconsider the vote by which we struck out the words "if adopted" in the first section, so as to allow the gentleman from Lancaster an opportunity to vote upon it. ["No!" "No!"]

Mr. J. N. PURVIANCE. I second the motion.

The PRESIDENT. The question is on the reconsideration of the vote referred to.

The motion was not agreed to.

Mr. MANN. I call for the yeas and nays. We do not want to say that this Constitution shall take effect. It does say it if these words are left out.

Mr. BUCKALEW. Not at all.

Mr. D. W. PATTERSON. I want to have a vote on this. I hope it will be reconsidered.

Mr. MANN. I called for the yeas and nays.

The PRESIDENT. The Chair had decided.

Mr. D. W. PATTERSON. I second the call for the yeas and nays.

The PRESIDENT. The question is on the passage of the article on Schedule.

The article was passed.

DESKS OF MEMBERS.

Mr. LITTLETON. Mr. President: I desire to state that at the last meeting of the councils of the city of Philadelphia an ordinance was passed directing the commissioner of city property to present, in the name of the city, to each member of the Convention, the desk and chair occupied by him during its sittings. That ordinance has been signed by the Mayor, and I hold in my hand a certified copy, which I send to the Clerk to be read.

The CLERK read as follows:

"CLERK'S OFFICE, SELECT COUNCIL, }
PHILADELPHIA, Nov. 1, 1873. }

"To the President and Members of the Constitutional Convention:

"GENTLEMEN:—This is to certify that the following is a true and correct copy of the original ordinance approved by his honor the mayor, the first day of November, A. D. 1873, entitled 'An ordinance authorizing the commissioner of city property to present to the members of the Constitutional Convention the desks and chairs used by said Convention:

"SECTION 1. The select and common councils of the city of Philadelphia do ordain, that the commissioner of city property be, and he is hereby, authorized and directed to present to the members of the Constitutional Convention in the name of the city, the desks and chairs used by them during the sittings of the Convention."

"Attest:

"JOSEPH H. PAIST,
"Clerk of Select Council."

Mr. ARMSTRONG. Mr. President: I offer the following resolutions:

Resolved, That this Convention returns its thanks to the mayor and councils of the city of Philadelphia for their generous consideration in presenting to the members the desks and chairs which they have been using during their session in this city.

Resolved, That the Convention accept this token of friendly regard and will gratefully cherish the remembrance of the uniform kindness of the mayor and councils and people of Philadelphia.

The resolutions were read the second time and considered.

Mr. ALBICKS. I move to amend by striking out the second resolution. The first resolution is fair. "We cannot accept this property except on payment of the reasonable price of the same," should be inserted at the end.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

The PRESIDENT. The question is on the resolutions.

The resolutions were agreed to, *nem. con.*

CONSTITUTION IN SHEET FORM.

Mr. HARRY WHITE. I ask leave to present a report from a committee.

Mr. HUNSICKER. I object to any report of a committee.

Mr. WHERRY. I ask that the report be read for information.

The PRESIDENT. It will be read.

The CLERK read the following resolutions reported by the select committee appointed this morning:

Resolved, That in lieu of advertising the new Constitution in two newspapers in each county as provided in the act of Assembly entitled "An act to provide for calling a Convention to amend the Constitution," approved April 11, 1872, the Secretary of the Commonwealth is hereby authorized and requested to cause to be printed by the State Printer in sheet form a sufficient number of copies of the new Constitution, accompanied by the address to the people prepared by the Committee of Revision of this body, as supplements, (at least one to each of their subscribers,) to as many newspapers published in the State as will consent to circulate the same in their several daily and weekly editions one time, for the allowance of one and a half cents per copy so

circulated, to be settled by the Auditor General.

Resolved, That it shall be the duty of the Executive Committee of this body to confer immediately with the Secretary of the Commonwealth on the subject of the above resolution and to see that its objects are expeditiously accomplished.

Resolved, That a copy of the above resolutions, properly signed and attested, shall be immediately furnished to the Secretary of the Commonwealth.

Mr. HOWARD. I move that the report be adopted.

Mr. CALVIN. I move that we take a recess until four o'clock.

Mr. DALLAS. I move to amend that motion by striking out "four" and inserting "half-past two."

The PRESIDENT. The amendment is half-past two.

Mr. HOWARD. Before that question is put I want to say, while delegates are here, that the committee of thirty-three will meet immediately on the recess of the Convention.

The PRESIDENT. I will further state, before the question is taken, that Mr. Bullitt desires to make a motion that he ought to be heard upon, and cannot unless this is withdrawn.

Mr. CALVIN. I withdraw the motion.

TAKING OF PRIVATE PROPERTY.

Mr. BULLITT. What I wish to submit to the Convention is this: In the sixteenth article as we now have it before the Convention, on Private Corporations, there is a provision that when private property is taken by municipal or other corporations, or individuals vested with the privilege of taking private property for public use; just compensation shall be made for property taken, injured or destroyed. There was in the Constitution as we had it before we met recently, a provision that "any party interested shall have the right of appeal from any preliminary assessment of damages made by viewers or otherwise, and the amount of damages in all such cases of appeal shall on the demand of any party interested be determined by a jury in a trial according to the course of the common law." Those words seem to have been left off in the present print, and I wish now to have that corrected either by offering an amendment to that effect or having the clause restored if it has been left off by mistake.

Mr. BUCKALEW. That is under revision in another place.

Mr. BULLITT. Where at? I have not been able to find it.

Mr. BUCKALEW. If the Convention will take a recess until about three o'clock the Committee on Revision will report, I think, all the articles entire down to the Schedule.

Mr. CALVIN. I renew my motion to take a recess until four o'clock.

Mr. DALLAS. I renew my amendment to two and a half. ["Say three."] I modify the amendment to say three o'clock.

The PRESIDENT. It is moved to amend the motion by taking a recess until three o'clock.

The amendment was agreed to.

The PRESIDENT. The question now is on the motion to take a recess as amended, which is until three o'clock.

The motion was agreed to, and (at one o'clock and thirty minutes P. M.) the Convention took a recess until three o'clock P. M.

AFTERNOON SESSION.

The Convention re-assembled at three o'clock P. M.

SIGNATURES OF ABSENTEES.

Mr. D. W. PATTERSON. I ask leave to offer a resolution, and I ask that it be read in order that the Convention may know what it is.

The PRESIDENT. It will be read for information only.

The CLERK read as follows:

Resolved, That the Secretary of the Commonwealth be directed to receive the signatures of the absent members of this Convention after the same be sent to Harrisburg, who may not have signed their names thereto.

The PRESIDENT. The gentleman from Lancaster asks unanimous consent to present a resolution at this time. Shall unanimous consent be given?

Unanimous consent was given, and the resolution was read twice and agreed to.

SPECIAL SESSION.

Mr. DALLAS. I ask leave to offer a resolution at this time.

Mr. BIDDLE. State what it is first.

Mr. DALLAS. I will state that I offer it at the suggestion of one of the commissioners appointed to conduct the election in this city. The resolution is:

Resolved, That the President, upon the request of a majority of the Executive Committee, may, and is hereby authorized to call a special session of this Convention at Harrisburg at any time upon five days' notice to delegates at their respective places of residence.

I ask leave to explain the purpose of this resolution. It is offered at the suggestion of one of the commissioners appointed by this body to conduct the election upon the Constitution in the city of Philadelphia. He has suggested to me that it is possible difficulties may arise here and that these commissioners perhaps may find trouble in carrying out the purpose of their appointment. He said to me: "have you made no provision for calling the Convention together in case anything of that kind should arise." I replied that we had not, and he requested that it should be done. If the resolution should be adopted, and there be no necessity in the view of this Executive Committee for calling the Convention together in extra session, of course there will be no session had. We have appointed a very good Executive Committee and if they should find difficulty in Philadelphia or elsewhere, it is proper that this Convention should be called together to take cognizance of that fact.

The PRESIDENT. The gentleman from Philadelphia asks leave to present a resolution at this time. Shall he have leave?

Leave was granted and the resolution was read twice.

The PRESIDENT. The question is upon the resolution.

M. LILLY. I would like to know of how many the Executive Committee consists. Is it thirty-three or five?

Mr. HAY. It is five.

OTHER DELEGATES. Thirty-three.

Mr. LILLY. I do not know what it is. Some say five and some say thirty-three.

Mr. NILES. It is five.

Mr. DARLINGTON. I think we are too hasty in this matter. We are conferring upon five gentlemen the power to call us together at any time they may desire. I do not think this is a power which should be devolved upon them. We are here to remain in session until we complete our work, and after our work is completed we should adjourn not be called together again. I can see no possibility of any good and sufficient reason arising for requiring us to hold another session.

Mr. DALLAS. It is proper that I should say a single word in reply to the gentleman from Chester. It was prophesied upon this floor last night that the very ordinance which we have adopted could not be lawfully executed in Philadelphia. That prophecy is enough to make us fear that the due execution of the ordinance will be interfered with, and, if such interference be made, the resolution provides a means by which the Convention may be called together to consider what action should be taken. That is the whole purpose of the resolution. It does not even require the President to call the Convention together upon the request of the Executive Committee. It only states that he may do so and it makes him one of the parties thereto.

Mr. COCHRAN. Practically I do not see what this Convention could do if it were called together. We have established a commission to hold this election in the city of Philadelphia, and if this commission meets with difficulty in the performance of its duty and thereupon the Convention should be called together, I do not know what we could do in the premises. Suppose we were to meet, one hundred and thirty-three men, some difficulty arising, what would be our action? We could only undertake to march in a body down to the polls and expel one set of election officers and instate another set.

Mr. NEWLIN. We could increase the powers of the commissioners and correct any mistake we might have made.

Mr. COCHRAN. The commissioners have now all the powers we can give them, and if there is any difficulty on that score they must depend on the action of the courts. That is all we can do in this matter.

Mr. D. W. PATTERSON. I hope we shall not meet again.

Mr. HAY. I think it is very wise and proper that this resolution should pass. This body ought not to adjourn for a specific period over the election without taking means to secure the attendance of its members, if it is necessary, before that election is held. This is a very wise resolution and one that this body ought to adopt. It may not be necessary, and it probably will not be necessary for the President of this Convention to call us together again; but if it is necessary in his judgment, he ought to have the power to do so.

The PRESIDENT. The question is upon the resolution.

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

Mr. D. W. PATTERSON. I second the call.

The yeas and nays were taken, and were as follows:

YEAS.

Messrs. Achenbach, Addicks, Alricks, Baer, Balley, (Huntingdon,) Barr, Beebe, Bigler, Bowman, Brodhead, Brown, Church, Corbett, Cronmiller, Dallas, Dunning, Edwards, Ellis, Gilpin, Hay, Hazard, Hemphill, Hunsicker, Kaine, Lambertson, Lilly, M'Camant, M'Culloch, M'Murray, Mott, Newlin, Niles, Palmer, G. W., Patterson, T. H. B., Patton, Pughe, Purman, Read, John R., Reynolds, Ross, Runk, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Temple, Van Reed, Wetherill, J. M., Wetherill, John Price, Wherry, Woodward, Worrell and Wright—53.

NAYS.

Messrs. Andrews, Baily, (Perry,) Baker, Biddle, Cassidy, Cochran, Darlington, Davis, DeFrance, Ewing, Harvey, Horton, Knight, Landis, Lawrence, Lear, MacConnell, Mann, Mantor, Minor, Patterson, D. W., Porter, Purviance, Jno. N., Reed, Andrew, Rooke, Smith, Henry W., Turrell, White, David N., White, Harry and Walker, *President*—30.

So the resolution was agreed to.

ABSENT—Messrs. Ainey, Armstrong, Bannan, Barclay, Bardsley, Bartholomew, Black, Boyd, Broomall, Buckalew, Bullitt, Calvin, Campbell, Carey, Carter, Clark, Collins, Corson, Craig, Curry, Curtin, Cuyler, Dodd, Elliott, Fell, Finney, Fuston, Funck, Gibson, Green, Guthrie, Hall, Hanna, Heverin, Howard, Littleton, Long, MacVeagh, M'Clean, M'Michael, Metzger, Mitchell, Palmer, H. W., Parsons, Purviance, Samuel A., Russell, Sharpe, Simpson, Stewart and White, J. W. F.—50.

NUMBER TO FORM A QUORUM.

Mr. KNIGHT. I ask leave to offer a resolution at this time.

Mr. BIDDLE. Let it be read before leave is granted.

The CLERK read the resolution, as follows:

Resolved, That after to-day forty-five members shall be a quorum to transact business.

Mr. KNIGHT. My object in offering the resolution—

The PRESIDENT. The question is on granting leave to present the resolution at this time.

Leave was not granted.

THE JUDICIARY ARTICLE.

Mr. LAMBERTON. Mr. President: I rise to a question of privilege. I present to the Chair a paper upon which the question is founded and ask that the same be read.

The PRESIDENT. The delegate from Dauphin rises to a question of privilege and presents a paper, which will be read.

The CLERK read as follows:

"We, members of the Convention, do hereby require the separate and distinct submission to a popular vote of the article on the Judiciary."

Mr. LAMBERTON. Read the forty-six names appended to it.

The CLERK read as follows:

"R. A. Lambertou,	Edward Harvey,
Pearson Church,	Josiah Funck,
John M. Balley,	Frank Mantor,
Henry W. Palmer,	James L. Reynolds,
Joseph Hemphill,	Harry White,
Hamilton Alricks,	Wm. H. Ainey,
George Ross,	Levi Rook,
Charles A. Black,	Z. H. Long,
A. M. Fulton,	Jno. P. Cronmiller,
Thomas Ewing,	D. W. Patterson,
William D. Baker,	John Gilpin,
Lewis C. Cassidy,	Wm. M'Clean,
Wm. Darlington,	Wm. B. Hanna,
William Lilly,	Jno. J. Metzger,
Henry C. Parsons,	Geo. G. Barclay,
J. W. F. White,	Geo. F. Horten,
J. Alex. Simpson,	T. Struthers,
T. H. B. Patterson,	M. Edwards,
J. G. Fall,	Theo. Cuyler,
J. H. Heverin,	Dan. S. Porter,
Andrew Reed,	Henry C. Carey,
M. C. Beebe,	Morton M'Michael,
Geo. W. Woodward,	Thos. R. Bannan."

Mr. BIDDLE. What is the question of privilege, Mr. President?

The PRESIDENT. I do not know what the question of privilege is.

Mr. LAMBERTON. I will state it, sir.

Mr. PURMAN. I rise to a question of order.

Mr. LAMBERTON. Now, sir, I ask that this resolution which I send up be also read.

Mr. ARMSTRONG. The gentleman rose to a question of privilege. I will be glad if he would state it.

Mr. LAMBERTON. I will state it in a moment. Let me get the papers read. I ask that that resolution be read.

The PRESIDENT. It will be read for information.

Mr. WHERRY. I rise to a point of order, that the gentleman has no right—

Mr. LAMBERTON. The question of privilege has precedence.

Mr. DALLAS. What is the question of privilege?

The PRESIDENT. I do not know.

Mr. WHERRY. I rise to a point of order.

The PRESIDENT. What is the point of order?

Mr. LAMBERTON. Read that paper. ["No!" "No!"] Read it for information.

Mr. WHERRY. I rise to a point of order, that the gentleman has no right to offer a resolution without leave.

Mr. LAMBERTON. I ask for the reading for information; that is all.

Mr. WHERRY. I rise to this point of order, that a resolution is not a question of privilege.

Mr. LAMBERTON. I only ask that it be read for information.

The PRESIDENT. The Chair cannot decide the question now. The Chair is obliged to permit the resolution to be read for information. It will be read.

Mr. HAY. I rise to a question of order that—

The PRESIDENT. There is a question of order.

Mr. HAY. My question of order is, that while it is perfectly proper for the Chair to read the resolution in order to decide whether it is a question of privilege, it is not in order to read it to the House.

The PRESIDENT. I will have it read by the Clerk for my information.

Mr. WM. H. SMITH. I submit that that paper is not in order because two of the signers are not present and have not been this day.

The PRESIDENT. I will decide as soon as I hear the resolution read. ["Read!" "Read!"] It will be read for my information. My eyes are not very good. [Laughter.]

The CLERK read as follows:

Resolved, That forty-six members of the Convention, (being more than one-third thereof) having demanded in writing the separate submission of the article on the Judiciary to a popular vote, it is

nereby ordered that the same be so submitted.

Mr. LAMBERTON. Now, Mr. President, I will state distinctly the question of privilege arising on the papers presented. It is, that under a law of this Commonwealth, as well as under the forty-third rule of this House, it is alike the right and the privilege conferred upon forty-five members of this Convention to have such separate submission, and I appeal to the magnanimity of my fellow members in this House to accord, without further trouble, that which is claimed in the paper presented.

Mr. D. N. WHITE. I ask what is before the House?

The PRESIDENT. The question of order.

Mr. ARMSTRONG. I submit to the Chair that there is no question of privilege.

Mr. STANTON. I for one should like to hear the decision of the point of order before the matter is discussed.

The PRESIDENT. If the point of order is raised I will decide that the point is well taken.

SEVERAL DELEGATES. Which point of order?

The PRESIDENT. I am with the delegate from Dauphin on the resolution, but I cannot rule that it is in order now to receive that resolution.

Mr. LAMBERTON. Mark, Mr. President, I did not offer the resolution at this time. I presented it that it might be read. The point of order is that resolutions at this time are not in order, which is perfectly correct; so that, therefore, there is no point of order available at this time. Now, then, I appeal to that courtesy which has characterized our deliberations all the way through, to the spirit of compromise, which has been manifested in reaching our conclusions upon every article. I appeal to those who have voted in the majority upon this question to recognize the rights and privileges of more than one thrice of the members of the Convention.

Mr. ARMSTRONG. Mr. President: It comes with ill grace from members on this floor who log-roll out of the Convention to seek to procure by indirection that which they cannot obtain by parliamentary courtesy and usage. How many of the men whose names are upon this paper, are here present to say that the signature is theirs on this paper, or that they endorse it now, or that they ever

did endorse it? How many of those members signed in the presence of this Convention; how many signed out of this Hall? I say, Mr. President, that the paper is neither a question of privilege nor is it a proper communication by way of protest, nor in any other method known to parliamentary usage or parliamentary courtesy. The rule requires that a resolution passed in the ordinary method known to parliamentary usage shall entitle a particular member to a certain privilege. Even then it is open to question whether this Convention, standing here in its representative capacity, embodying the sovereignty of the people, can be bound by an act of the Legislature which was passed after we became invested with our authority.

The PRESIDENT. This is all out of order.

Mr. LAMBERTON. Mr. President: A word of personal explanation in reply to what has fallen—

Mr. ARMSTRONG. If this is out of order I shall cease, and I hope it is.

Mr. LAMBERTON. Simply a personal explanation.

Mr. ARMSTRONG. I will yield to the gentleman for a personal explanation.

Mr. LAMBERTON. Is the gentleman through?

Mr. ARMSTRONG. No, sir.

Mr. LAMBERTON. Then I will wait till you are done.

Mr. ARMSTRONG. What I rise to say is, that there is nothing before the House on which debate can be opened.

The PRESIDENT. That is true.

Mr. LAMBERTON. Now a word of explanation. ["Let us hear it."] I regret exceedingly to have heard such words fall from the lips of a gentleman, whom I so highly respect, imputing something improper to that paper when he insinuated that the names appended to it are not genuine or that they were obtained in an improper manner.

Mr. ARMSTRONG. The gentleman mistakes.

Mr. LAMBERTON. I want to say distinctly that every name upon that paper is in the own proper hand writing of the delegate whom it represents. I want to say further, that not one signature was appended to it outside of this Convention; that that paper was circulated by gentlemen on this floor after the call of the roll yesterday when there were fifty-one delegates here voting in favor of the

separate submission of the article on the Judiciary. No personal solicitation was made until after that vote was called and when the President unfortunately decided that it was not such a vote as came within the rule of this Convention. There are two or three names there that were placed upon that paper yesterday purposely because by reason of the urgency of business those delegates were compelled to leave for their homes last night, and being absent they wanted to speak over their own signatures to this Convention; and, therefore, I trust out of manliness and out of courtesy to the delegates who have signed, to the delegates who are absent, that the gentleman will promptly disclaim any such imputation as that which he has uttered.

Mr. ARMSTRONG. Mr. President: A word of personal explanation, if it be the order of the day. The gentleman appeals to me in the face of a persistence which is utterly unprecedented in this Convention. If there had been the same amount of unreasonable persistence in forcing the views of other members upon this House, contrary to the asserted convictions of the Convention, we should not yet have been done with the first article of the Constitution. There is nothing in this that looks like conceding to the judgment of the large majority of this House the proper settlement of the questions that come before us, but by indirection an attempt to forestall and over-ride the majority, under a suggestion that it is a right given by an act of Assembly. Now, sir, this question has been decided repeatedly. I trust it stands settled forever, so far as this Convention is concerned.

Mr. HAY. Mr. President: I ask leave at this time to make a report.

The PRESIDENT. We should dispose of the matter before us in some shape or other.

Mr. HAY. I thought the Chair had decided.

The PRESIDENT. I have decided.

Mr. LAWRENCE. Then that is an end of it.

The PRESIDENT. If gentlemen have no other point to bring before the Chair, the Chair will put the question on receiving the report.

Mr. LAMBERTON. I would ask for the decision of the question I have submitted to the Chair, that is, the privilege of these forty-six gentlemen to have a sepa-

rate submission of the article on the Judiciary.

The PRESIDENT. The Chair has decided.

Mr. LAMBERTON. What is the decision.

Mr. HAY. I ask leave to make a report.

The PRESIDENT. Gentlemen will arrest their remarks a moment. The delegate from Dauphin has asked the Chair to decide the question of privilege. The Chair thought he had decided that in the shape and form presented, he could not sustain the gentleman. He says this having in his own mind a clear conviction that the ideas of the gentleman from Dauphin are right when brought before the Convention in proper shape. Against his wishes he is compelled to rule the point of order against the gentleman.

Mr. AINEY. Will the Chair now decide what would be the proper shape to bring it up. ["No." "No."]

SETTLEMENT OF ACCOUNTS.

Mr. HAY. I ask leave at this time to make a report.

The PRESIDENT. Shall the gentleman have leave to make a report at this time? ["Aye."] Leave was granted.

Mr. HAY. The Committee on Accounts and Expenditures of the Convention respectfully reports, that under the resolutions adopted by the Convention yesterday, warrants should be drawn in favor of Rev. James W. Curry and Lucius Rogers. They therefore report the following resolution:

Resolved, That warrants be drawn in favor of Lucius Rogers for three hundred dollars, in payment of his services rendered to the Committee on Revision and Adjustment; and in favor of James W. Curry for one hundred dollars for his services as Chaplain.

The resolution was read twice and agreed to.

COMMITTEE ON HOUSE.

Mr. ADDICKS. I ask leave to offer a resolution.

Leave was granted, and the resolution was received and read as follows:

Resolved, That at the adjournment of the Convention, this hall and its contents, as far as they are the property of the city of Philadelphia, be placed in the care of the Committee on House, and said committee are hereby directed to give possession of the same to the proper authorities of the city of Philadelphia.

The resolution was read the second time and agreed to.

EXECUTIVE COMMITTEE.

Mr. J. M. BAILEY. I ask leave to present the report of the select committee of thirty-three, ["aye," "aye,"] and in making this report I am requested to say that the committee do not wish to be understood as designating who should be the chairman of the committee of five, leaving that question to be settled by the committee itself on its organization.

The report was received and read as follows:

"To the Constitutional Convention of Pennsylvania:

"The committee selected by the delegates representing respectively the senatorial districts of the State, respectfully report that in obedience to the resolution adopted October thirty-first they have selected Harry White, Charles R. Buckalew, J. W. M. Newlin, John R. Read and Thomas Howard to be the Executive Committee contemplated by said resolution.

Mr. J. M. BAILEY. This report requires no action. The original resolution for the appointment of the committee of thirty-three made those selected by them the Executive Committee. I do not think it requires a motion.

Mr. NILES. I ask leave to offer a resolution, and ask that it be read for information.

The CLERK read as follows:

Resolved, That James P. Barr be added to the Executive Committee, this day appointed by the Convention.

Mr. NILES. Mr. President: Just one word.

The PRESIDENT. The resolution is not before the House.

Mr. NILES. I ask leave then to offer the resolution.

The PRESIDENT. Will the Convention give leave.

Leave was granted, and the resolution was read twice and considered.

Mr. CHUBB. I move to further amend by adding the name of John Price Wetherill, of Philadelphia.

The PRESIDENT. The question is on the amendment. ["Aye." "Aye."]

Mr. NILES. I accept the amendment as part of my resolution.

Mr. DARLINGTON. I wish to state to the Convention that that committee of thirty-three got together and carefully considered the whole question, and recommended the five, and we think no

good reason has yet been assigned for any change in it.

The PRESIDENT. The question is on the resolution as amended.

The resolution as amended was agreed to.

THE ADDRESS.

Mr. BUCKALEW asked and obtained leave to offer the following resolution:

Resolved, That the Committee on Revision and Adjustment be authorized to prepare and publish their exhibit of the changes proposed by the new Constitution and address the people thereon, after the adjournment of the Convention.

The resolution was read twice and considered.

Mr. CALVIN. I move to refer that to the Executive Committee we have just appointed. ["No." "No."]

The motion was not agreed to.

The PRESIDENT. The question is on the resolution of the gentleman from Columbia.

The resolution was agreed to.

REVISED CONSTITUTION.

Mr. KNIGHT, from the Committee on Revision and Adjustment, reported the several articles of the Constitution finally revised and corrected, as follows:

Article one, section seven, first line, strike out the word "undertakes" and insert the words "may undertake;" second line strike out "Legislature" and insert "General Assembly," and make the same change wherever it occurs in the article.

Article two, section four, fourth line, strike out the word "he" and insert the words "the Governor." Section five, first line, strike out the word "four" and insert the word "five." Section eleven, third line, strike out the word "his" and insert the word "its." Section sixteen, tenth line, strike out the word "provided." Section eighteen, first line, strike out the word "Legislature" and insert the words "General Assembly."

Article three, section seven, thirty-seventh line, striking out the word "granting." Section eleven, line four, strike out the word "Legislature" and insert "General Assembly." Section twelve, first line, strike out the word "of" and insert the word "or." Section thirteen, first line, strike out the word "bids" and insert the word "bills." Section eighteen, third line, strike out "Legislature" and insert "General Assembly."

Article four, section eight, fourteenth

line, strike out the word "annual." Section fourteen, fifth line, strike out the word "he" and insert the words "the President *pro tempore* of the Senate;" in the same line, strike out the word "Gubernatorial" and after the word "office," in the sixth line, insert the words "of Governor;" in the same line strike out the words "office of," and insert the words "seat as;" in the same line make the word "when" read "whenever," and after the word "he" insert the word "shall." Section nineteen, second line, make the word "change" read "changes;" third line, after the word "to" insert "corporations, to." Twenty-first section, third line, strike out the word "the," where it occurs the third time, and change the word "election" to "elections."

Article five, section one, fourth line, strike out the word "Legislature," and insert the words "General Assembly;" and make the same change throughout the article. Section two, second line, strike out the word "voters" and insert the word "electors." Section three, strike out the word "and" after "corpus." Section five, seventh line, strike out the words "the number of;" twelfth line, insert the words "in Philadelphia" before the words "all suits;" and add to the end of the section: "In Allegheny each court shall have exclusive jurisdiction of all proceedings at law and in equity commenced therein, subject to change of venue as may be provided by law." Section ten, first line, strike out the word "er" and insert word "as;" in the third line, strike out the word "voters" and insert the word "electors." Section eleven, first line, strike out the words "for each thirty thousand inhabitants" and after the word "established" insert the words "for each thirty thousand inhabitants;" in the first and second lines strike out the words "in lieu of the office of alderman as the same now exists;" and at the end of the section add the words "the office of alderman is abolished." Section thirteen, first line, insert after the word "cases" the words "of summary conviction," and strike out those words after the word "Commonwealth;" in the third line, after the word "of," insert the word "the." Section seventeen, fourth line, strike out the word "not;" in same line, strike out the word "any" and insert the word "no;" in the same line, after the word "com-

pensation," insert the words "fees or perquisites of office" and strike out those words at the end of the same line; in the fifth line, strike out the words "nor under." Section eighteen, third line, strike out the words "or county." Section nineteen, insert the word "chancery" at the beginning of the third line, and after the word "powers," in the same line, strike out the words "of court of chancery." Transpose section twenty-seven, so as to come in as section five.

Article six, section four, fifth line, strike out the word "are" and insert the words "shall have been."

Article seven, section one, twenty-second line, make the word "member" read "members," and strike out the word "is" and insert the words "shall be."

Article eight, make the word "election" in the heading read "elections." Section one, paragraph three, enclose all from the word "year" in the fourth line to the word "immediately" in the sixth line in parenthesis. Section two, second line, strike out the word "Legislature" and insert the words "General Assembly." Section four, fifth line, before the word "officers" insert the word "election," and strike out in the fifth and sixth lines the words "and clerks of the election board;" in the sixth line strike out the word "has" and insert the words "shall have;" in the seventh line strike out all after the word "unless" to the end of the section, and add the words, "required to do so as witnesses in a judicial proceeding." Section six, in the last line make the word "place" read "places." Section ten, first line, after the word "in" insert the words "trials of;" in the same line after the word "proceedings" insert the words "for the;" in the same line strike out the word "investigating," and insert the words "investigation of." Section eleven, in the third and fourth lines strike out the word "provided" and insert the word "but." Section fourteen, fifth line, strike out the words "shall be" at the beginning of the line. Section sixteen, fifth line, strike out the word "division" and insert the word "district;" in the eleventh line after the word "court" insert the words "able to act at the time," and enclose the same in parenthesis; in the twelfth line, make the word "appointment" read "appointments."

Article nine, strike out the word "Legislature," wherever it occurs, and insert

the words "General Assembly." Section one, in the third and fourth lines, strike out the words "except from the special assessments herein provided for." Section three of the article on railroads is transferred and made section three of this article. Section four, second line, strike out the words "or to," where they first occur; also strike out the word "or" after the word "insurrection." Section five, second line, strike out the word "intended" and insert the words "to be used." Section eight, sixth line, strike out the words "Provided, That," and insert the word "But;" in the eighth line, strike out the words "in existence," and enclose in parenthesis the words "In the aggregate at any one time."

Article ten, section one, strike out the word "Legislature," in the first and third lines, and insert the words "General Assembly."

Article eleven, first and only section, second line, strike out the word "and" after the word "law;" in the second and third lines, strike out the word "Legislature" and insert the words "General Assembly;" in the fourth line, strike out the words "but the Legislature" and insert the word "and."

Article twelve, section two, fourth line, strike out the word "and."

Article thirteen, section one, second line, make the word "nor," after the word "miles," read "or."

Article fourteen, section five, after the word "of," at the beginning of the fifth line, insert the word "any."

Article sixteen, section two, first line, strike out the word "Legislature" and insert the words "General Assembly." Section four, first line, strike out the word "the." Insert as section twelve, the following:

"Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines; and the General Assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire by purchase or otherwise, any other competing line of telegraph."

Article seventeen, strike out section

three, the same having been transferred to the article on Revenue and Taxation. Section six, third line, strike out the word "or" and insert the word "of."

Article eighteen, strike out the word "Legislature" where it occurs in the seventh and twelfth lines, and insert in lieu thereof the words "General Assembly;" in the sixteenth line strike out the words "Provided, That."

Mr. HOWARD. As I understood the reading of the report, section three, of the article on Railroads and Canals is transferred to the article on Private Corporations. Now, sir, there was a motion and a specific vote on the subject of transferring that section and the Convention refused to transfer it. I do not think the committee have any right, against the order and vote of the Convention, to transfer a section of the Railroad article. The Convention expressly said that it should not be transferred, and I insist upon it that the committee have no right to transfer a section against the expressed will of the majority of this Convention.

Mr. HAY. I move that the report of the committee be adopted.

Mr. HOWARD. I report, the Committee on Revision have no right to transfer a section against the express vote of the Convention.

The PRESIDENT. The Chair has some recollection of a vote being taken on that subject; but certainly if the Convention decided not to transfer the section, it would not, in the opinion of the Chair, be competent for the Committee to do what the Convention refused to do.

Mr. STRUTHERS. There have been a great many alterations made in this report, and I move —

Mr. HAY. I made a motion, which I desire to have entertained, that the report be adopted.

Mr. KAINE. I second that motion.

Mr. HOWARD. I object.

Mr. HAY. You can vote against it, if you want to.

Mr. LILLY. I move to amend the motion so as to provide that we take up the first article, and if there be no objection, adopt it; then take up the second article, and if there be no objection, adopt that, and so on. ["No." "No."]

Mr. STRUTHERS. I move that the Convention adjourn.

Mr. HAY. Oh, no; let us get through with this matter.

Mr. STRUTHERS. It will certainly require some time to look over this report before we can wisely adopt it.

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

The motion was not agreed to.

The PRESIDENT. The question recurs on the motion to adopt the report of the committee.

Mr. WHERRY. I move to amend that motion by excepting the transfer of section three of the article on Railroads and Canals to the article on Private Corporations.

Mr. HAY. That is right; it ought to be done.

Mr. WHERRY. No, sir; it ought not to be done.

The PRESIDENT. The question is on the amendment of the delegate from Cumberland.

Mr. WHERRY. Allow me to state my reason for that. This article is headed "Private Corporations." A railroad is not a private corporation. That is followed up by a definition of the term "corporation" in this article, and I maintain that the meaning of "corporations" as given in section twelve of the article on corporations does not include public corporations. If this section is transferred from the article on Railroads and Canals to the article on Private Corporations, it is included within the definition of "corporations" laid down in section twelve, and therefore is inoperative for the purpose for which this Convention passed it.

Mr. HOWARD. It has not been decided, where the question has been specifically raised, whether a railroad was a private or a public corporation. I maintain that it is a public corporation; it is not private. It is a corporation for all public purposes in the hands of private managers. I hope this section will be allowed to remain where the Convention ordered it to remain after discussion and upon a specific motion to transfer it to the article on Private Corporations. It was right there, and let it remain there.

Mr. HAY. I hope this amendment will not be agreed to, and mainly for this reason: I want to retain —

Mr. H. W. PALMER. I rise to explain. This section was not transferred to the article on Private Corporations, but to the article on Taxation and Finance, where it ought to be.

Mr. WHERRY. I have no objection to that. I withdraw my amendment if that is the case.

The PRESIDENT. The amendment is withdrawn.

Mr. LILLY. I move to amend by providing that we take up each article *seriatim*, and if there be any objection to the changes made by the committee in that article, take a vote upon them.

The amendment was rejected, there being thirty-two ayes—less than a majority of a quorum.

Mr. WRIGHT. I move that we take a recess until seven o'clock.

Mr. BUCKALEW. I hope we shall vote on this subject now.

Mr. STRUTHERS. I move an adjournment.

The PRESIDENT. The motion to adjourn takes precedence.

The motion was not agreed to.

The PRESIDENT. The question recurs on the motion that the Convention take a recess until seven o'clock.

The motion was not agreed to.

The PRESIDENT. The question now recurs on the adoption of the report,

Mr. T. H. B. PATTERSON. I now ask the Clerk to distinctly state where section three of the article on Railroads and Canals is to be transferred, so that there can be no misunderstanding about it.

Mr. HOWARD. There is no objection to transferring it to the article on Taxation and Finance. That is right.

The CLERK. I will read from my minutes: "Section three transferred to the article on Taxation and Finance, to become section three of that article."

The PRESIDENT. Is the delegate satisfied?

Mr. T. H. B. PATTERSON. Yes, sir, that is correct.

Mr. GIBSON. I should like to have the attention of gentlemen of the Convention for one moment in regard to the first article, the Declaration of Rights. I think the Committee on Revision and Adjustment have made a very serious mistake when they have undertaken to strike from the Declaration of Rights the word "Legislature" and insert "General Assembly." I say that when we come to declare general principles with regard to the legislative power, as we do in the Declaration of Rights, the terms "General Assembly" and "Legislature" are not synonymous. I do not object to the change in any other part of the Constitu-

tion, because that refers to the general power.

Now, sir, the general legislative power of the United States is called Congress; the general legislative power of England is called the Parliament; we call it a General Assembly. But, sir, that does not mean "Legislature," and I protest, as one member on the Committee of Declaration of Rights, against tampering with words like that in the original Declaration of Rights as it is used. "Legislature" and "General Assembly" do not mean the same thing. I merely suggest it. I, for one, am unwilling to sign the Constitution with such a change without making this protest, and I ask gentlemen to think whether the amendment is proper.

Mr. DALLAS. In the seventh line of the fifth section of the article on the Judiciary the Committee on Revision have stricken out the words "the number of." I desire to call the attention of the Convention to the fact that that change makes that equivocal which before was certain. The sentence as it stood read: "But the number of said courts may be by law increased." The committee have changed it to read: "But said courts may be by law increased," which may mean that their numerical force may be increased. That will never be desired or desirable perhaps; but that we may add to the number of the courts will certainly be a necessity. I move that the words "the number of," in the fifth section, be restored.

Mr. D. W. PATTERSON. I second the motion. That is important.

Mr. BUCKALEW. There is no particular objection to restoring the words, only they are simply of no use. They were struck out on that ground. If the gentleman from Philadelphia wants to restore them, of course we have no objection.

The PRESIDENT. The question is on the motion of the gentleman from the city (Mr. Dallas.)

The motion was agreed to, there being on a division, yeas forty-one, noes fourteen.

Mr. GIBSON. I now desire to make my motion, to strike out the words "General Assembly" and reinstate the word "Legislature" in the Declaration of Rights.

The motion was agreed to.

Mr. DARLINGTON. I ask the attention of the Convention for one moment to article sixteen on Private Corporations. In

the fifth line of the third section of that article the committee have inserted the word "upon" after the word "infringe," which makes bad grammar.

Mr. BUCKALEW. There is no objection to striking it out.

Mr. DARLINGTON. I move to strike out that word.

The motion was agreed to.

Mr. TURRELL. In the article on Legislation, section seven, lines thirty-six and thirty-seven, there is a repetition of words. The words "to any corporation, association or individual" in the thirty-seventh line are but a repetition of the words contained in the preceding line. I move to strike out those words. The clause will then read:

"Granting to any corporation, association or individual any special or exclusive privilege or immunity or the right to lay down a railroad track."

Mr. HARRY WHITE. I hope those words will not be stricken out. They were put in after careful consideration, and have a particular meaning. I do not want to take up the time of the Convention at this period but this amendment is matter of substance.

Mr. BIDDLE. No, it is not.

Mr. HARRY WHITE. I beg your pardon. I think it is matter of substance and I have a right to my opinion. I do not think it is debatable and I raise that question of order. The gentleman seeks to strike out what is matter of substance, when the business of the Committee on Revision and Adjustment is only to report changes in matter of style or phraseology.

The PRESIDENT. The Chair will not entertain a motion to strike out matter of substance. The question before the Convention at this time can only be either to restore the original text of the articles amended or revised by the Committee on Revision and Adjustment, or adopt the report of that committee. We cannot at this time undertake to go over these matters again, nor can we discuss an amendment at this period. The Convention may overrule the Chair in that decision, but he so decides.

Mr. LAWRENCE. I understand the Chair to say that the question before the Convention at this time is to adopt the report of the Committee on Revision and Adjustment *in toto*.

The PRESIDENT. The Convention has the right to amend any section or article where anything has been stricken out,

by inserting what has been taken out by the Committee on Revision and Adjustment, but they have no right to go beyond that and re-legislate, and I shall rule this amendment out of order.

Mr. LAWRENCE. That is right.

Mr. WHERRY. The Committee on Revision and Adjustment did not strike this out.

The PRESIDENT. The question recurs on the adoption of the report of the Committee on Revision and Adjustment.

Mr. BIDDLE. I want to ask a question. Do I understand you to decide that it is out of order to move to strike out what was in before or to insert what was not in?

The PRESIDENT. I decide that as these articles have gone to the Committee on Revision and Adjustment and they have amended them, we have the right to review what they have done, but we have no right to go beyond that and propose amendments to the original text.

Mr. ARMSTRONG. Unless by unanimous consent.

The PRESIDENT. Unless by unanimous consent.

Mr. BIDDLE. Do I understand that ruling applies to the insertion of new matter?

The PRESIDENT. Certainly.

Mr. BIDDLE. Then I ask unanimous consent to insert an amendment in article five section six of the article on the Judiciary. The language is:

"For Philadelphia there shall be one prothonotary's office and one prothonotary for all the courts, who shall be appointed by the judges of said courts."

At the time the section was passed, the manifest design and intention of the Convention was to give to the judges of these courts the right to appoint their prothonotaries, or officers or clerks, and by accidental omission the words "court of oyer and terminer and quarter sessions of the peace" were left out. I want to put them in so as to make that part of our system harmonious. I ask unanimous consent to insert after the word "courts" in the second line of section six and article five as follows:

"And one office and one clerk of the court of oyer and terminer and quarter sessions of the peace."

The PRESIDENT. The gentleman from Philadelphia asks unanimous consent to insert the words he has mentioned. Will the Convention agree?

Mr. HARRY WHITE. I object.

Mr. CUYLER. I hope nobody will object to that. It concerns only Philadelphia, and it is certainly right.

The PRESIDENT. There is objection and the amendment cannot be received.

Mr. CUYLER. I hope the objection will be withdrawn.

Mr. HARRY WHITE. I object.

Mr. BUCKALEW. If I can make myself heard, I will call the attention of the Chair to one section in the article on Legislation.

The PRESIDENT. The gentleman from Columbia shall have an opportunity to make himself heard and the Chair will enforce order.

Mr. ARMSTRONG. I ask the gentleman from Columbia to give way for one moment. In reference to the motion of Mr. Biddle I desire to state that as this question stands now, if the article remains unchanged the clerk of quarter sessions will be appointed by the prothonotary as one of the subordinate clerks for the office. I think he will.

Mr. D. W. PATTERSON. He will.

Mr. ARMSTRONG. If this amendment of the gentleman from Philadelphia be inserted, that officer will be appointed by the court. I think the amendment is a wise provision and ought to be put in.

Mr. DARLINGTON. I am agreed.

Mr. BUCKALEW. I am perfectly willing, and all gentlemen ought to be willing, to correct any blunder that we have made; but this is an amendment which proposes to affect the clerk of the court of quarter sessions in the city of Philadelphia and in the article on County Officers we have expressly made that clerk of the court of quarter sessions a county officer and provided for his election by the people. The clerk of the court of quarter sessions in Philadelphia is an electable office just as it always has been. That is directly expressed in the article on County Officers, and I do not see now how it can be changed. If any gentleman will point out any deficiencies in our provisions or anything else of importance, I will waive all rules in order that an error may be corrected.

What I desire to call attention to upon this report of the Committee on Revision and Adjustment is this. It will be remembered that the gentleman from Delaware, who ordinarily sits behind me, introduced a section one morning which the Convention referred to a committee and it was reported back from the com-

mittee, run through three readings in one day, and sent to the Committee on Revision and Adjustment to do the best they could with it. The result is that it appears in the text of the sixteenth section of the article on the Legislature, one of the most important sections in our whole Constitution, and I say here that this section, as now changed by the amendment of the gentleman from Delaware, is not to the credit of this Convention. Gentlemen will remember that I protested against its being driven through here all in one day, that I moved twice to postpone the subject until we could look at it and understand it, but under the impulse and pressure of the moment it went through. That section ought to be looked at yet, if we can. If we cannot reach it here of course it must go, but under that section it may happen that two counties of this State will be united together and will have more than two full Senatorial ratios of population and yet will get but a single Senator. It is a case that may happen in any future apportionment.

Again, that section introduces an element of uncertainty in another respect. It provides that a county that has less than four-fifths of a ratio and more than one-half a ratio shall be entitled to a separate Senator if the county adjoining it is entitled to a Senator.

Mr. NILES. If every county adjoining it is:

Mr. BUCKALEW. Well, if every county adjoining it is entitled to a Senator. It thus introduces doubt as to whether a Senator shall be given under the first clause of the section, which fixes a full ratio, or the subsequent provision of the section which allows the Legislature to give a county a Senator on four-fifths of a ratio, the result of which will be in the Legislature that when the men appointed to make an apportionment bill want to give a county separate representation, they will do it, and when they do not want to do it, they will not. They will give the one construction or the other according to the necessities of the hour and the political bias of the Legislature. If there were time, I would move that this section, the sixteenth section of the article on the Legislature, be referred to the Committee on Revision and Adjustment for further consideration, with instructions to report upon it to see whether they can correct this thing, without disturbing

what has been done, so that this evil will not be felt.

I am speaking of the fact that the Committee on Revision and Adjustment could not correct the last mistake here when hurried for time. This amendment was pushed through the Convention under pressure, and the Committee on Revision and Adjustment had nothing to do but to report it back. I mean, however, if there is an opportunity, to submit that motion after we get through with the present question.

The PRESIDENT. The question is upon agreeing to the report of the Committee on Revision and Adjustment as amended.

The report was agreed to.

ADJOURNMENT.

Mr. HEMPILL. I move that the Convention do now adjourn, and upon that motion I call for the yeas and nays.

The PRESIDENT. The gentleman from Chester moves that the Convention do now adjourn.

Mr. WHEERY. I move to amend the motion by stating until half-past seven o'clock this evening.

Mr. ARMSTRONG. I move that the Convention take a recess from now until seven o'clock, and I wish to make one remark. There are a number of gentlemen here who have not dined and they feel the necessity of leaving the Convention for that reason, but I do believe, from the intimations I have heard around me, that if this Convention adjourn until next Monday there will be no quorum here at that time. We can finish our work to-night if we remain, and I think we ought to do it.

Mr. HARRY WHITE. We cannot finish it to-night.

Mr. NEWLIN. It cannot be done.

Mr. DALLAS. I desire to say a single word to this Convention, and that is that several of the gentlemen who have been appointed commissioners to conduct the election upon this Constitution in Philadelphia, have said to myself and several others, that under the ordinance we have passed to third reading, they do not believe it will be possible for them to perform their duties. They think the ordinance requires change and those gentlemen are themselves about considering what changes they desire to ask of this Convention. If we proceed to-night in haste to finish our labors, we may leave ourselves in great trouble on that sub-

ject. I hope, therefore, we shall have a session next week.

Mr. PURMAN. If any of the difficulties suggested by the gentleman from Philadelphia occur we have given the President power to convene us in session again, but I say that if this Convention does not close its labors to-night, we may never see a quorum hereafter to-day.

The PRESIDENT. The Chair will ask gentlemen if they forget that the Constitution is to be signed. Do they want to sign a blank piece of paper or sign the Constitution? It will require time for the preparation of this instrument for signing, and the Chair will state that, for one, he will not sign anything but the Constitution until it is all completed. The Chair is in no particular hurry to adjourn, but when I sign my name to a paper I want to know what I am signing.

Mr. D. W. PATTERSON. Who are the members who intend to go home and leave us without a quorum?

Mr. LILLY. What I want to say is that there will be a quorum here on Monday. There are members in this Convention who can stay and attend to their duties and we will keep a sufficient number here to give this Convention a quorum for the transaction of business.

Mr. TURRELL. No delegate on this floor has any right to say that there will not be a quorum here on Monday, and anybody who does say that and then goes away from this city with the intention of leaving this Convention without a quorum, goes away without having fully performed his duty. We are sworn to perform our duties with fidelity, and we are bound to stay here until we do so perform them, if it is until next week or next month. I am here to discharge my duty until it is fully and finally completed, and no man here has a right to say the contrary.

Mr. PURMAN. I have been here as faithfully as the gentleman from Susquehanna, and I think about as faithfully as any other member of this Convention, and when I stated that there would be no quorum here on Monday, I but repeated what I had heard said frequently upon the floor of this Convention, publicly and privately. In answer to the charge of the gentleman from Susquehanna, allow me to state that I would be as loth to neglect my duty as he. I am not afraid to refer to my record as a public servant as to the fidelity with which I have discharged my

duties to the people of this Commonwealth, and without further word of mine I am satisfied to let that record be its own vindication. I have not stated that I will leave this Convention, but I warn the Convention against attempting to adjourn under present circumstances.

Mr. H. W. PALMER. I suggest that we take a recess until half-past seven o'clock, then come back and do such things as we find to do; and if we do not conclude our labors to-night we can adjourn until Monday. I move that we take a recess until half-past seven and I call for the question.

Mr. CALVIN. I move that we now adjourn until Monday.

Mr. HEMPHILL. Yes, I move that when we adjourn it be to meet again on Monday morning.

Mr. CALVIN. On Monday morning at ten o'clock. It is perfectly manifest that this Convention is not in a frame of mind to complete our work to-night.

Mr. HOWARD. Better stand by our work a day or two and do it right.

Mr. CALVIN. I move that we adjourn until Monday morning at ten o'clock.

The PRESIDENT. The Chair cannot entertain the motion. Since the motion was voted down before we have done nothing, and we cannot filibuster by morning adjournment after adjournment until we do something.

Mr. HARRY WHITE. I ask leave to make a motion. I move that it is inexpedient for the members of this Convention to sign the Constitution until the same is printed.

Mr. H. W. PALMER. I insist upon the question upon the motion to adjourn until half-past seven o'clock this evening.

The PRESIDENT. The gentleman from Indiana asks leave to make a motion. Shall he have leave?

MANY DELEGATES. I object.

Mr. HARRY WHITE. I insist upon my motion and I call for a division.

On the question of granting leave to make the motion, the ayes were forty and the noes were forty-five. So the Convention refused to grant leave.

Mr. CAMPBELL. I move that the Convention take a recess until half-past seven o'clock.

Mr. ELLIS. I rise to a point of order. My point of order is that it is not in order for the Constitutional Convention of Pennsylvania to rival the closing hours of the Legislature. [Laughter.]

The PRESIDENT. The delegate from Philadelphia moves that the Convention take a recess until half-past seven o'clock.

Mr. HAY. I desire to say a single word. If we are not to close our session to-day, I hope we shall adjourn over until Monday morning. I am in favor of sitting here until this body is prepared to adjourn over to Harrisburg if that is practical, but I am entirely opposed, if we cannot adjourn to meet in Harrisburg either to-day or Monday, to holding a session to-night. We are not in condition now to finish our work, and unless we are in a condition to finish it, unless there is very little to be done, unless there will be only one or two votes to be taken, I hope, if there is to be any adjournment, we shall adjourn over to Monday when we shall be in a fit condition and temper to do something.

Mr. H. W. PALMER. We might as well look at this question in a practical way. What remains to be done is to engross this Constitution as passed through third reading and as it has been corrected by the Committee on Revision and Adjustment, have it printed on paper, carefully read by the members, and then have it transferred to parchment. That will take not less than one week or ten days. If the Convention proposes to stay here and await the completion of that work, I am satisfied for one to stay; but it is very certain we shall have to tarry here a number of days if we want to sign the parchment before we leave. Now the law provides that the President of the Convention and the clerks shall sign the instrument and the formality of the members signing the instrument can well be dispensed with until we meet at Harrisburg when the instrument will be presented in due form and can be signed. If we wait here to sign it, we shall be here till next Saturday night.

Mr. LILLY. I move that we do now adjourn.

Mr. J. M. BAILY. To what time.

Mr. LILLY. I decline to name any time.

Mr. CAMPBELL. I have moved that we take a recess until half-past seven o'clock.

Mr. LAMBERTON. A motion to adjourn takes precedence of a motion to take a recess.

The PRESIDENT. It is moved that this Convention do now adjourn.

Mr. WHERRY. On that motion I call for the yeas and nays.

Mr. HOWARD. I second the call.

Mr. HARRY WHITE. I rise to a parliamentary inquiry. I ask the Chair whether if we adjourn now, we do not adjourn to meet at half-past nine o'clock on Monday morning.

The PRESIDENT. If we adjourn now, we meet at half-past nine o'clock on Monday morning.

Mr. H. W. PALMER. When we adjourn here, we adjourn to meet at Harrisburg. ["No." "No."]

Mr. PATTON. I hope the Chair will state what we are voting on.

The PRESIDENT. We are voting upon an adjournment until half-past nine o'clock on Monday morning.

Mr. HOWARD. In this Hall?

The PRESIDENT. In this Hall. The yeas and nays have been called upon the question of adjournment and the Clerk will proceed with the call.

The yeas and nays were taken and were as follow, viz:

YEAS.

Messrs. Addicks, Armstrong, Baer, Bailey, (Huntingdon,) Baker, Bannan, Barr, Beebe, Biddle, Bigler, Black, Brown, Buckalew, Calvin, Cassidy, Church, Clark, Curtin, Dallas, Darlington, Edwards, Elliott, Ellis, Fell, Finney, Gibson, Gilpin, Guthrie, Hanna, Hazard, Hemphill, Horton, Howard, Kaine, Lamberton, Landis, Lawrence, Lear, Lilly, M'Clean, M'Culloch, M'Murray, Mantor, Minor, Mott, Newlin, Patterson, D. W., Patton, Reynolds, Rooke, Smith, H. G., Stanton, Struthers, Temple, Turrell, Van Reed, Wetherill J., M., Wetherill, John Price, White, Harry, Worrell and Walker, *President*—61.

NAYS.

Messrs. Alricks, Andrews, Bally, (Perry,) Bowman, Campbell, Cochran, Corbett, Cronmiller, Curry, Davis, De France, Ewing, Funck, Hay, Hunsicker, Knight, Littleton, M'Camant, Mann, Niles, Palmer, G. W., Palmer, H. W., Patterson, T. H. B., Pughe, Purman, Purviance, John N., Reed, Andrew, Ross, Runk, Russell, Smith, Wm. H., Wherry and White, David N.—33.

ABSENT.—Messrs. Achenbach, Ainey, Barclay, Bardsley, Bartholomew, Boyd, Brodhead, Broomall, Bullitt, Carey, Carter, Collins, Corson, Craig, Cuyler, Dodd, Dunning, Fulton, Green, Hall, Harvey, Heverin, Long, MacConnell, MacVeagh, M'Michael, Metzger, Mitchell, Parsons,

Porter, Purviance, Sam'l A., Read, John So the motion was agreed to; and (at
R., Sharpe, Simpson, Smith, Henry W., six o'clock and seventeen minutes P.M.)
Stewart, White, J. W. F., Woodward and the Convention adjourned until Monday
Wright—39. morning at half-past nine o'clock.

ONE HUNDRED AND SEVENTY-NINTH DAY.

MONDAY, November 3, 1873.

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

The Journal of the proceedings of Saturday last was read and approved.

THANKS TO THE REPORTERS.

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

Resolved, That the thanks of the Convention be, and they are hereby, tendered to D. F. Murphy, Esq., and his corps of gentlemanly assistants for their admirable reports of the debates of this Convention, as well as for their uniformly urbane and gentlemanly conduct in their intercourse with the members.

Mr. HAY. I wish to have the privilege of making a formal second to that resolution. I hope, sir, that the resolution will be passed, and I desire to state that I most heartily concur in every word of it.

The resolution was adopted unanimously.

SUBMISSION OF JUDICIARY ARTICLE.

Mr. MANTOR. I offer the following resolution:

Whereas, When the section of the ordinance pending for the submission of the Constitution to a popular vote was under consideration, fifty-one members voted for a separate submission of the article on the Judiciary:

And whereas, Forty-six members, being more than the one-third required, signed a paper, which was read to the Convention, requiring such separate submission; therefore,

Resolved, That the said article be separately and distinctly submitted to a popular vote.

On the question of proceeding to the second reading and consideration of the resolution, the yeas and nays were required by Mr. Darlington and Mr. Hemphill, and being taken, resulted as follow, viz:

YEAS.

Messrs. Ainey, Alricks, Bailey, (Huntingdon,) Baker, Barclay, Beebe, Bigler, Black, Caray, Cassidy, Church, Coohran, Cronmiller, Darlington, Davis, Edwards, Ewing, Funck, Gibson, Gilpin, Hanna, Harvey, Hemphill, Horton, Howard, Knight, Lamberton, Lilly, Long, M'Clean, M'Culloch, Mann, Mantor, Palmer, H. W., Patterson, D. W., Porter, Purviance, John N., Reynolds, Rooke, Ross, Simpson, White, Harry and Worrell—44.

NAYS.

Messrs. Achenbach, Andrews, Armstrong, Baer, Baily, (Perry,) Barr, Biddle, Bowman, Boyd, Brodhead, Broomall, Brown, Buokalew, Calvin, Clark, Corbett, Dallas, De France, Dunning, Elliott, Guthrie, Hay, Hazzard, Kaine, Lawrence, MacConnell, Mott, Newlin, Niles, Palmer, G. W., Patton, Pugh, Furman, Read, John R., Runk, Russell, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Van Reed, Wetherill, John Price, Wherry, White, David N., Wright and Walker, *President*—49.

So the resolution was not ordered to a second reading.

ABSENT.—Messrs. Addicks, Bannan, Bardsley, Bartholomew, Bullitt, Carter, Campbell, Collins, Corson, Craig, Curry, Curtin, Cuyler, Dodd, Ellis, Fell, Finney, Fulton, Green, Hall, Heverin, Hunsicker, Landis, Lear, Littleton, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Minor, Mitchell, Parsons, Patterson, T. H. B., Purviance, Samuel A., Reed, Andrew, Sharpe, Stewart, Wetherill, J. M., White, J. W. F. and Woodward—40.

SEPARATE VOTES.

Mr. HARRY WHITE. I offer the following resolution:

Resolved, That at the election on the amended Constitution, separate votes shall be taken on such articles as one-third of this Convention shall indicate by

a petition to the President of the Convention, signed by at least one-third of the members of the Convention, which petition shall be entered on the Journal.

The PRESIDENT. What order will the Convention take on the resolution?

Mr. HARRY WHITE. I move to proceed to the second reading and consideration of the same.

Mr. BOYD. On that question I call for the yeas and nays.

Mr. HEMPHILL. I second the call.

The yeas and nays were taken and were as follow, viz:

YEAS.

Messrs. Ainey, Atricks, Bailey, (Huntingdon,) Baker, Barclay, Beebe, Cassidy, Church, Cronmiller, Darlington, Ewing, Funk, Gibson, Gilpin, Hanna, Harvey, Hemphill, Horton, Howard, Lamberton, Littleton, M'Clean, Mann, Mantor, Patterson, D. W., Porter, Purviance, John N., Reynolds, Rooke, Ross, Simpson, Wetherill, J. M. and White, Harry—38.

NAYS.

Messrs. Achenbach, Andrews, Armstrong, Baer, Bally, (Perry,) Barr, Bidle, Bigler, Black, Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Calvin, Campbell, Carey, Clark, Corbett, Curtin, Dallas, Davis, De France, Dunning, Edwards, Elliott, Guthrie, Hay, Hazzard, Kaine, Landis, Lawrence, Lilly, Long, MacConnell, M'ulloch, Mott, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patton, Pughe, Purman, Read, John R., Runk, Russell, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Van Reed, Wetherill, John Price, Wherry, White, David N., Woodward, Worrell, Wright and Walker, President—68.

So the Convention refused to order the resolution to a second reading.

ABSENT.—Messrs. Addicks, Bannan, Bardsley, Bartholomew, Bullitt, Carter, Cochran, Collins, Corson, Craig, Curry, Cuyler, Dodd, Ellis, Fell, Finney, Fulton, Green, Hall, Heverin, Hunsicker, Knight, Lear, MacVeagh, M'Camant, M'Michael, M'Murray, Metzger, Minor, Mitchell, Parsons, Patterson, T. H. B., Purviance, Samuel A., Reed, Andrew, Sharpe, Stewart and White, J. W. F.—37.

THANKS TO CLERKS.

Mr. J. N. PURVIANCE. I offer the following resolution which I will read myself:

"Resolved, That the thanks of this Convention are hereby cordially tendered to D. L. Imbrie, Lucius Rogers and A. D. Harlan—Clerk and Assistant Clerks—for their able, constant and efficient services. Their obliging and courteous deportment, their fidelity and courtesy in the performance of the onerous duties which devolved upon them commend them to the esteem and confidence of every member of the body."

The resolution was read twice and agreed to unanimously.

ADDITIONAL PAY.

Mr. BAKER. I offer the following resolution:

Resolved, That an additional compensation of two hundred dollars each be given to Joseph Ebersole, janitor, James Craig, janitor, John Switzer, firemen, and Joseph Patterson, night watchman.

The resolution was not ordered to a second reading.

MEETING AFTER THE ELECTION.

Mr. ALRICKS. I wish to make a motion and I ask the attention of delegates, for I hope unanimous consent will be given. We have fixed on the twenty-fourth of December for the meeting at Harrisburg. I would call the attention of delegates to the fact that that will be Christmas eve. There are a large number of gentlemen here who say that they will not be absent from home on Christmas under any circumstances. By a statute of Pennsylvania, Christmas day is a *dies non juridicus*. I submit that with a number of members of this Convention it is a Christian holy day, and with all the members of the Convention it is a holiday. Now I would name the twenty-sixth, which will be Friday. Some of the gentlemen of this Convention object to Friday. I have no superstition myself about days, or upon any other subject; but I would name the thirtieth of December which will be one week before the meeting of the Legislature. I would call the attention of delegates to the fact that the returns of the last election were not in at the end of two weeks. I ask unanimous consent of the House to fix the time of the meeting at Harrisburg on Tuesday, the thirtieth of December.

The PRESIDENT. Will the House grant consent? ["Aye." "Aye." "No."] I hear some objection.

Mr. ALRICKS. I move then for a reconsideration of the order adopted the other day.

Mr. LILLY. I rise to a privileged question. I move to reconsider the vote which fixed the day of re-assembling.

Mr. BIDDLE. I second the motion.

The PRESIDENT. A reconsideration is moved.

Mr. LAWRENCE. I ask the gentleman to wait until the ordinance comes up and then we can amend it.

Mr. LILLY. This matter was settled by resolution; it has nothing to do with the ordinance.

The PRESIDENT. The ordinance will be up in a minute.

Mr. LILLY. It is not in the ordinance; it is fixed by resolution.

The PRESIDENT. The question is on the reconsideration of the vote on the resolution referred to.

The motion to reconsider was agreed to.

The PRESIDENT. The resolution is again before the House.

Mr. ALRICKS. I move that the time of re-assembling be made Tuesday the 30th of December.

The PRESIDENT. It is moved to strike out "the Wednesday of the week following the election," and insert "Tuesday, December 30th."

Mr. KAINE. I move to amend the resolution by making it Tuesday the 23d of December.

SEVERAL DELEGATES. The returns will not be in then.

Mr. EDWARDS. I hope the motion will not prevail. The election is to be held on the third Tuesday of December. The returns cannot be got to Harrisburg in time to be opened and counted on the 23d of that month.

Mr. KAINE. The third Tuesday is the 18th.

The PRESIDENT. The question is on the amendment to the amendment, fixing Tuesday the 23d of December.

The amendment to the amendment was rejected.

Mr. HAY. I move to amend by making it "Friday the 26th."

Mr. BAER. That would require us to leave home on Christmas, and we might as well be sitting in Convention as traveling on that day.

Mr. HAY. I am one of those who are opposed to being from home on Christmas day, as the delegate from Dauphin suggested, but I think Tuesday, the 30th, is entirely too late a date for this Convention to adjourn to. It is only the second day

before the first of January, the day at which we provide that this Constitution, if adopted, shall go into effect. If it is practicable, we ought to have our meeting at Harrisburg on such a day as will permit the returns to be examined and certified to the Governor in time for him to issue his proclamation before the first of January, if it be adopted. Certainly two days before the first of January is too late a date for this Convention to re-assemble, and some earlier date should be fixed.

Mr. BIDDLE. The objection to the 26th is that it will necessitate at least one-third of the gentlemen here traveling on Christmas day, which they do not want us to do. Make it the 27th.

Mr. MANX. I think the most appropriate day would be the first of April. [Laughter.]

The PRESIDENT. The question is on the amendment fixing Saturday the twenty-seventh day of December as the day of re-assembling.

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

The PRESIDENT. The question is on the resolution as amended.

The resolution as amended was agreed to.

ATTESTATION OF ADDRESS.

Mr. CUYLER. I beg leave to offer the following resolution:

Resolved, That the address to the people of the State prepared under authority of the Convention shall be submitted to the President and shall be attested by his signature and that of the Clerk, as the act of the Convention.

The resolution was read the second time and considered.

Mr. BUCKALEW. I move to amend by adding, "and be published in the pamphlet edition of the Constitution."

Mr. CUYLER. I accept the amendment.

The PRESIDENT. The amendment is accepted. The question is on the resolution as modified.

Mr. EWING. Before voting on that question I should like to know when the address will be ready. We have directed that the pamphlet edition of the Constitution shall be ready for circulation within ten days after the adjournment of the Convention. Now, is not the publication of the address with it likely to delay that publication?

Mr. BUCKALEW. The address will be prepared within a week. The only difficulty will be in regard to the signature of the President and Clerk. It may subject them to some inconvenience to be at Philadelphia. The Committee can meet and prepare the address within a few days.

Mr. EWING. Then it will necessarily delay the publication.

The PRESIDENT. The question is on the resolution as amended.

Mr. BOYD. I call for the yeas and nays.

Mr. DARLINGTON. I second the call.

Mr. COCHRAN. It seems to me that as we have constituted an Executive Committee and authorized them to prepare this address, the authentication of it by their signatures is all that is necessarily required, and we may rest upon that. They have the authority of the Convention to prepare it, and I do not see that it is necessary for us to require the President and Clerk of the Convention to remain here several days after our adjournment in order to get their signatures to the address, and it is quite possible that the President after it is written and submitted to him might not find it such an address as he would be willing to sign.

Mr. CUYLER. If the resolution does not comment itself to the sound judgment of this body without comment, I shall despair of making it recommendable to their approval by anything that I can say. This address is the act of the whole body, our official act, and it ought to be authenticated by the signature of our proper officers. It will carry a weight to the people of the State when it comes as the act of the Convention and is attested by the signature of our President, that it could carry in no other manner. I mean no depreciation of this Executive Committee, but it is the act of the whole body and should be attested by the proper official representatives of the body.

Mr. WOODWARD. There is considerable force in what the gentleman from Philadelphia has said, and yet I agree with the gentleman from York that this address ought to be issued by the Executive Committee; but I am of opinion that that Executive Committee ought to be enlarged. I have conferred with some members of the committee and, as soon as this resolution is disposed of, I am going to move to add four names to that Executive Committee, which I will read for the informa-

tion of the Convention now. I am going to move to add the names of Messrs. Cochran, Gibson, Armstrong and Lambertson, and when the committee shall be so constituted with the very efficient and respectable gentleman upon it with the addition of those four names, I think we can very well entrust to them the preparation of an address to the people of Pennsylvania.

Mr. COCHRAN. Allow me to explain, I was under an erroneous impression in supposing that the Executive Committee were to prepare the address. I believe that the address was ordered to be prepared by the Committee on Revision and Adjustment, and I think it still remains in that position.

Mr. WOODWARD. If that is so, then that committee will need the revision of the Executive Committee, and it should be drawn under their sanction.

Mr. COCHRAN. Further, I beg the gentleman not to use my name in that connection. It will be almost impossible for me to act on that committee.

The question being taken by yeas and nays resulted as follow, viz :

YEAS.

Messrs. Achenbach, Addicks, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Barclay, Barr, Beebe, Biddle, Bigler, Black, Bowman, Brodhead, Brown, Bullitt, Calvin, Carey, Cassidy, Church, Corbett, Cronmiller, Curtin, Cuyler, Dallas, Davis, Dunning, Edwards, Elliott, Funck, Gibson, Gilpin, Guthrie, Hanna, Harvey, Hay, Hazard, Hemphill, Heverin, Lambertson, Landis, Lawrence, Lilly, Long, M'Culloch, M'Michael, M'Murray, Mann, Mantor, Mott, Newlin, Niles, Palmer, G. W., Patterson, D. W., Patton, Porter, Pughe, Purman, Purviance, John N., Ross, Smith, H. G., Smith, Wm. H., Struthers, Temple, Turrell, Van Reed, Wetherill, J. M. and Wright—70.

NAYS.

Messrs. Boyd, Broomall, Clark, Darlington, De France, Ewing, MacConnell, M'Clean, Reed, Andrew, Runk, Russell, Simpson, Smith, H. W., Stanton, Woodward, Worrell and Walker *President*—17.

So the resolution was adopted.

ABSENT.—Messrs. Ainey, Baker, Bannan, Bardsley, Bartholomew, Buckalew, Campbell, Carter, Cochran, Collins, Cor-

son, Craig, Curry, Dodd, Ellis, Fell, Finney, Fulton, Green, Hall, Horton, Howard, Hunsicker, Kaine, Knight, Lear, Littleton, MacVeagh, M'Camant, Metzger, Minor, Mitchell, Palmer, H. W., Parsons, Patterson, T. H. B., Purviance, Samuel A., Read, John R., Reynolds, Rooke, Sharpe, Stewart, Wetherill, John Price, Wherry, White, David N., White, Harry and White, J. W. F.—46.

EXECUTIVE COMMITTEE.

Mr. WOODWARD submitted the following resolution, which was read twice and considered:

"Resolved, That four additional names, to wit: Messrs. Gibson, Armstrong, Lamberton and Lawrence, be placed upon the Executive Committee already appointed."

Mr. DARLINGTON. I call for the yeas and nays on the adoption of the resolution.

Mr. H. W. PALMER. I second the call.

Mr. WOODWARD. I desire to say that I offer this resolution at the instance of one of the present members of that committee. It was not my own idea, it is his.

Mr. DARLINGTON. That committee already consists of seven, five selected by the committee of thirty-three and two added by the body, carefully selected with a view to their qualifications, and I do not think it is quite respectful towards them to make any change now. I shall vote against it.

Mr. LAMBERTON. I understand that the delegate from the city states that this is offered upon the request of the committee. Is that so?

SEVERAL DELEGATES. One member of the committee.

Mr. LAMBERTON. I only wish to state that I have had nothing to do with it and beg to be excused.

The yeas and nays were taken and resulted as follow, viz:

Y E A S .

Messrs. Aohenbach, Addicks, Andrews, Baer, Bailey, (Huntingdon,) Barr, Bidle, Bigler, Black, Bowman, Brodhead, Broomall, Brown, Bullitt, Cassidy, Cochran, Cronmiller, Cuyler, Davis, Elliott, Ewing, Guthrie, Hanna, Harvey, Hay, Hazzard, Hemphill, Heverin, Horton, Kaine, Landis, Lilly, Littleton, Long, M'Clean, M'Michael, Mantor, Minor, Niles, Palmer, G. W., Patterson, D. W.,

Patton, Porter, Pughe, Purman, Purviance, Jno. N., Smith, Wm. H., Stanton, Struthers, Temple, Van Reed, Wetherill, J. M., Wherry, White, Harry, Woodward, Worrell and Walker, *President*—57.

N A Y S .

Messrs. Ainey, Alricks, Baily, (Perry,) Baker, Barclay, Boyd, Church, Clark, Dallas, Darlington, De France, Funck, Lawrence, MacConnell, M'Culloch, M'Murray, Mott, Reynolds, Rooke, Runk, Russell, Simpson, Smith, H. G., Smith, H. W. and White, D. N.—25.

So the resolution was agreed to.

ABSENT.—Messrs. Armstrong, Bannan, Bardsley, Bartholomew, Beebe, Bucklew, Calvin, Campbell, Carey, Carter, Collins, Corbett, Corson, Craig, Curry, Curtin, Dodd, Dunning, Edwards, Ellis, Fell Finney, Fulton, Gibson, Gilpin, Green, Hall, Howard, Hunsicker, Knight, Lamberton, Lear, MacVeagh, M'Camant, Mann, Metzger, Mitchell, Newlin, Palmer, H. W., Parsons, Patterson, T. H. B., Purviance, S. A., Read, John R., Reed, Andrew, Ross, Sharpe, Stewart, Turrell, Wetherill, Jno. Price, White, J. W. F. and Wright—61.

LEAVE OF ABSENCE.

Mr. EWING. I desire to ask leave of absence for Mr. T. H. B. Patterson for today, I failed to get the floor at the proper time.

Leave was given Mr. Ewing to make a motion and leave of absence was granted to Mr. T. H. B. Patterson.

JUDICIARY ARTICLE.

Mr. SIMPSON. Under the forty-third rule, I move that the Judiciary article be submitted to a separate and distinct vote of the people, and on that motion I call for the yeas and nays.

Mr. ARMSTRONG. I rise to a point of order. Whether it is possible to worry this Convention to force this measure through against the wishes of a majority. I raise the question of order that the question has been already submitted and decided.

The PRESIDENT. The delegate from the city (Mr. Simpson) moves that the Judiciary article be submitted to a separate vote.

Mr. SIMPSON. Submitted separately and distinctly to a popular vote, and on that motion I call for the yeas and nays.

The PRESIDENT. Upon that motion the delegate from Lycoming makes a point of order. What is the point?

Mr. ARMSTRONG. My point of order is that this question has already been submitted to and decided by this House; and it is not possible to renew it in any other manner than by a reconsideration of the vote already taken.

The PRESIDENT. The Chair sustains the point of order.

Mr. AINEY. I rise to a point of order. There has been no motion made on this subject. The vote that was taken by the House this morning was upon a resolution. I desire to state in answer to the gentleman from Lycoming that there has been no motion before this body to submit the article on the Judiciary to a separate vote. The House voted on a resolution to that effect.

Mr. DALLAS. The Chair has sustained the point of order.

The PRESIDENT. The Chair will not make a distinction between a motion and a resolution when they are both designed to accomplish the same thing.

ORDER OF BUSINESS.

Mr. BRODHEAD. I offer the following resolution:—

Mr. ARMSTRONG. I move to suspend the rules and proceed to the consideration of the ordinance for submitting the amended Constitution to the people of Pennsylvania.

Mr. HARRY WHITE. Reports of committees are still in order. There is a report of the Committee on Printing lying on the Clerk's desk which has not yet been acted upon.

Mr. LAWRENCE. Let us take up the ordinance.

The PRESIDENT. The delegate from Northampton offers a resolution.

Mr. ARMSTRONG. I withdraw my motion for the present.

The PRESIDENT. Gentlemen must not make so many motions. It is impossible to get through with our business if the work of the Convention is to be interrupted in this way. The resolution offered by the gentleman from Northampton will be read.

EXPENSES OF EXECUTIVE COMMITTEE.

The CLERK read the resolution of Mr. Brodhead as follows:

Resolved, That the sum of ——— dollars be appropriated for the use of the Executive Committee appointed by the Convention; and so much of the same as shall be necessary to be expended in the discharge of the duties of its appointment, shall

from time to time be drawn by warrant of its chairman attested by its secretary.

The PRESIDENT. What order will the House take on this resolution?

Mr. BRODHEAD. I move to its second reading and consideration.

The motion was rejected.

DEPOSIT OF ENGROSSED CONSTITUTION.

Mr. AINEY. I have a resolution to offer —

Mr. ARMSTRONG. I move to suspend the rules and proceed to the consideration of the ordinance.

Mr. BENNE. I ask the gentleman from Lycoming to give way for a moment.

Mr. D. W. PATTERSON. I have a resolution to offer and I ask my friend from Lycoming to withdraw his motion for that purpose. I believe he will agree to the resolution.

Mr. ARMSTRONG. I will hear the resolution read before I withdraw my motion.

Mr. D. W. PATTERSON. My resolution is:

Resolved, That the Chief Clerk of the Convention be hereby directed to deposit in the office of the Secretary of the Commonwealth at Harrisburg the new Constitution, after the same is engrossed, and signed by the President, Chief Clerk, and also by the members present.

Mr. ARMSTRONG. I withdraw my motion to allow that resolution to be offered.

Mr. D. W. PATTERSON. I move that we proceed to the second reading and consideration of the resolution.

The motion was rejected.

JUDICIARY ARTICLE.

Mr. AINEY. I now move that a separate and distinct vote be taken on the article on the Judiciary except section twenty-three, and I ask to have section twenty-three read.

Mr. LAWRENCE. Mr. President: I move we take up the ordinance—

Mr. ARMSTRONG. My motion takes precedence of the motion of the gentleman from Lehigh. I moved to suspend the rules to proceed to the consideration of the ordinance.

Mr. HARRY WHITE. The gentleman from Lehigh was recognized and I submit that this way of cutting him from the floor is not fair.

Mr. ARMSTRONG. This is filibustering, and I think it should cease.

Mr. HARRY WHITE. I hope the dele-

gate from Lycoming will not undertake to lecture a large portion of this Convention. They have their rights the same as he has.

The PRESIDENT. The delegates must keep order. This motion, in the opinion of the Chair, looks like filibustering.

Mr. AINEY. I distinctly disclaim any purpose of filibustering.

Mr. ARMSTRONG. We understand that.

Mr. HARRY WHITE. If you do not understand it, you soon will.

The PRESIDENT. The Chair thinks the delegate from Lehigh has a right to make his motion.

Mr. AINEY. My motion is that the Judiciary article be submitted to a separate vote, except section twenty-three, and I ask that section twenty-three be read.

Mr. KAINE. I rise to a question of order. My point of order is that this subject has already been voted on and disposed of to-day. We disposed of it as a whole, and now it is offered in part.

The PRESIDENT. The motion is before the Chair now in another form to submit the article on the Judiciary to a separate vote, with the exception of section twenty-three.

Mr. LAWRENCE. I raise this question. I was on the floor to make a motion that we proceed to the consideration of the ordinance when the gentleman from Lycoming made the same motion. He only yielded the floor to the delegate from Lancaster to offer a resolution, with the understanding that his motion was to be renewed when the resolution was disposed of. The delegate from Lycoming was entitled to the floor for the purpose of making his motion.

Mr. LAMBERTON. Do I understand that gentlemen can make such arrangements on the floor of this House?

The PRESIDENT. Certainly not.

Mr. LAMBERTON. I did not suppose they could.

The PRESIDENT. The Chair will regulate the business of this House under the rules. He will recognize the gentleman from Lehigh and allow him to make his motion, and afterward he will recognize the gentleman from Lycoming. The reading of the twenty-third section of the article on the Judiciary has been called for and it will be read.

The CLERK read as follows:

"SEC. 23. In all cases of felonious homicide, and in such other criminal cases as may be provided by law, the accused, after

conviction and sentence, may remove the indictment, record and all proceedings to the Supreme Court for revision."

The PRESIDENT. The motion of the gentleman from Lehigh is to submit to a separate popular vote the Judiciary article, with the exception of this section. On that motion the yeas and nays are called for by the gentleman from Lehigh. Who seconds the call?

Mr. MANN. I do.

The PRESIDENT. The Clerk will call the names of delegates.

The yeas and nays were taken and were as follow, viz:

Y E A S.

Messrs. Ainey, Alricks, Bailey, (Huntingdon,) Baker, Barclay, Beebe, Cassidy, Church, Cronmiller, Darlington, Edwards, Gilpin, Hanna, Harvey, Hemphill, Heverin, Horton, Howard, Lamberton, M'Clean, M'Michael, Mantor, Patterson, D. W., Reed, Andrew, Reynolds, Rooke, Ross, Simpson and White, Harry—29.

N A Y S.

Messrs. Achenbach, Andrews, Armstrong, Baer, Baily, (Perry,) Barr, Biddle, Bigler, Black, Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Campbell, Carey, Clark, Corbett, Cuyler, Dallas, Davis, DeFrance, Elliott, Ewing, Funck, Guthrie, Hay, Hazzard, Kalne, Knight, Landis, Lawrence, Lilly, Littleton, Long, MacConnell, M'Culloch, M'Murray, Mana, Mott, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patten, Pughe, Purman, Purviance, John N., Read, John R., Runk, Russell, Smith, Henry W., Smith, Wm. H., Stanton, Temple, Turrell, Van Reed, Wetherill, John Price, Wherry, White, David N., Woodward, Worrell, Wright and Walker, President—67.

So the motion was rejected.

ABSENT—Messrs. Addicks, Bannan, Bardsley, Bartholomew, Carter, Cochran, Collins, Corson, Craig, Curry, Curtin, Dodd, Dunning, Ellis, Fell, Finney, Fulton, Gibson, Green, Hall, Hunsicker, Lear, MacVeagh, M'Camant, Metzger, Minor, Mitchell, Parsons, Patterson, T. H. B., Porter, Purviance, Samuel A., Sharpe, Smith, H. G., Stewart, Struthers, Wetherill, J. M. and White, J. W. F.—37.

Mr. HOWARD. I voted "aye" because I recognize the right of a minority of forty-five under the act of Assembly to a separate vote, although I am in favor of the submission of the Constitution as a

whole, I have voted "aye" also, because in my judgment the President has, by his ruling, deprived the minority of this right.

EXECUTIVE COMMITTEE.

Mr. BEEBE. I offer the following resolution:

Resolved, That Frank Mantor, of Crawford, and Rasselas Brown, of Warren counties, be added as additional members of the Executive Committee.

One word—

The PRESIDENT. It is not yet before the body. What order will the Convention take? ["Second reading."]

The resolution was ordered to a second reading and read the second time.

Mr. ALRICKS. I move to add the name of Daniel Kaine, of Fayette.

Mr. KAINE. I decline preemptorily to serve.

Mr. BEEBE. I just wish to call the attention of the Convention to the fact that there are at least fifteen counties of north-western Pennsylvania that have not a single member on this Executive Committee, and that the people there will wonder why this is. The Executive Committee constituted by this body were instructed to put upon that committee for general management but five members. Hence that committee of thirty-three did not transcend their instructions; but it has seemed to be the will of this Convention that the State should be more largely represented, and if there is a member here who can tell me why the whole of north-western Pennsylvania should be ignored in the constitution of this committee, I should like to hear him give the reason.

Mr. CURTIN. I suggest to the gentleman who moved the resolution that there is not a single man from the northern part of the State at all, and I apprehend we shall get most of our votes for the Constitution in that region.

The PRESIDENT. We do not want anybody there; we can do it all ourselves. [Laughter.]

Mr. CURTIN. You are in the north-west. I mean the northern part of the State.

Mr. BEEBE. I think the people of that region will appreciate the fact that they have some representatives on that committee.

The PRESIDENT. The question is on the resolution.

The resolution was agreed to.

PHILADELPHIA ELECTION EXPENSES.

Mr. BUCKALEW. I offer the following resolution:

Resolved, That the reasonable and necessary expenses incurred by the commissioners of election for Philadelphia, the payment of which shall not be authorized by the election laws of the Commonwealth, shall be reported to this Convention at its meeting at Harrisburg, to be settled and approved thereby; and that the President of this Convention be authorized to draw his warrant, countersigned by the Chief Clerk, in favor of said commissioners, for any sum, not exceeding five thousand dollars, to apply on said expenses.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for and the ayes were sixty-five, noes not counted. So the resolution was read the second time and considered.

Mr. WOODWARD. I move to strike out "five" and insert "ten," so as to make the amount ten thousand dollars.

Mr. DARLINGTON. I think it has been settled by the Convention that each county is to pay its own expenses at this election. If I am right, each county is to pay its own expenses as the order now stands. It was reported that the expenses should be furnished to the Auditor General and by him repaid to the counties, but I believe that was stricken out. Now, what I suggest, is that we should apply the same rule to all parts of the State. If it is proper for the Commonwealth to pay the expenses of the election in Philadelphia, it is proper that it should pay the expenses in all other parts of the State. I suggest, therefore, to the gentleman who offered this resolution to make it embrace all the election expenses of the State. There is no propriety in confining it to Philadelphia.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

The PRESIDENT. The question is on the original resolution.

Mr. HARRY WHITE. I call for the yeas and nays.

Mr. AINEY. I second the call.

The yeas and nays were taken and resulted as follows:

YEAS.

Messrs. Achenbach, Alricks, Andrews, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Barr, Beebe, Biddle, Bigler,

Black, Brodhead, Brown, Buckalew, Calvin, Campbell, Carey, Cassidy, Church, Clark, Corbett, Curtin, Cuyler, Dallas, De France, Elliott, Gibson, Guthrie, Hay, Hazzard, Heverin, Kaine, Lambertson, Landis, Lilly, Littleton, Long, M'Clean, M'Michael, M'Murray, Mantor, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patton, Purman, Read, John R., Reed, Andrew, Reynolds, Rooke, Russell, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, David N., Woodward, Worrell, Wright and Walker, *President*—68.

N A Y S.

Messrs. Ainey, Barclay, Bowman, Boyd, Cronmiller, Darlington, Davis, Edwards, Ewing, Gilpin, Hanna, Harvey, Hemphill, Horton, Howard, Knight, MacConnell, M'Culloch, Mann, Mott, Porter, Purviance, John N., Ross, Runk, Smith, Henry W., Van Reed, and White, Harry—27.

So the resolution was agreed to.

ABSENT.—Messrs. Addicks, Armstrong, Bannan, Bardsley, Bartholomew, Broomall, Bullitt, Carter, Cochran, Collins, Corson, Craig, Curry, Dodd, Dunning, Ellis, Fell, Finney, Fulton, Funck, Green, Hall, Hunsicker, Lawrence, Lear, MacVeagh, M'Camant, Metzger, Minor, Mitchell, Parsons, Patterson, D. W., Patterson, T. H. B., Pughe, Purviance, Samuel A., Sharpe, Stewart and White, J. W. F.—38.

ORDINANCE OF SUBMISSION.

Mr. ARMSTRONG. I move now that we proceed to the consideration on third reading of the ordinance of submission. I do not desire to move any suspension of the rules and I have given way for the purpose of allowing resolutions to be introduced; but if there be objection to it, I think the interests of the Convention and the necessity of saving time require that it should be proceeded with.

Mr. HARRY WHITE. That motion is amendable, I suppose. I merely want to call up the report on the publication of the Constitution that was submitted the other day.

Mr. ARMSTRONG. That can be called up afterwards just as well.

Mr. HARRY WHITE. I would rather call it up at this time.

Mr. ARMSTRONG. I insist on my motion to proceed with the ordinance.

Mr. HARRY WHITE. I move to amend by striking out "the ordinance" and inserting "the report of the Committee on Publication."

Mr. ARMSTRONG. It cannot be amended in that way, I submit to the Chair, because it is not germane to the motion.

Mr. HARRY WHITE. We have done it before.

Mr. ARMSTRONG. Only by common consent.

The PRESIDENT. Does the delegate from Indiana insist on his motion?

Mr. HARRY WHITE. I do.

The PRESIDENT. The Chair rules that it is no amendment.

Mr. HARRY WHITE. I merely wish to have precedent followed. I am following the same line of precedent as heretofore.

The PRESIDENT. I do not recollect the time when such an amendment as that was sustained. The question is on the motion of the delegate from Lycoming to proceed to the consideration of the Ordinance of Submission.

The motion was agreed to.

Mr. RUCKALEW. Now I ask unanimous consent to introduce a proposition for reference to the Committee on Revision. ["No." "No."] It is simply for reference.

The PRESIDENT. Will the Convention unanimously assent to allow the proposition to be introduced?

SEVERAL DELEGATES objected.

The PRESIDENT. Objection is made. The ordinance is before the Convention on third reading, and will be read the third time.

The CLERK read the ordinance, as follows:

Be it ordained by the Constitutional Convention of the Commonwealth of Pennsylvania, as follows:

1. That the amended Constitution, prepared by this Convention, be submitted to the qualified electors of the Commonwealth for their adoption or rejection, at an election to be held on the third Tuesday of December next; except as hereinafter ordered and directed, the said election shall be held and conducted by the regular election officers in the several election districts throughout the Commonwealth under all the regulations and provisions of existing laws relating to general elections.

2. The Secretary of the Commonwealth shall, at least twenty days before the said

election, furnish to the commissioners of each county, a sufficient number of properly prepared circulars of instructions. The commissioners of the several counties shall cause to be prepared printed ballots of affirmative votes to the number of at least three times the number of voters in each county—and the same number of negative votes; and the said commissioners shall, at least five days before said election, cause to be fairly distributed to the several election districts in their respective counties, the said ballots and blanks, tally-lists and returns and circulars of instructions. The ballots shall be printed or written in the following form: On the outside the words "New Constitution;" in the inside for all persons giving affirmative votes the words "For the New Constitution," and for all persons giving negative votes the words "Against the New Constitution."

SECTION 3. If it shall appear that a majority of the votes polled are for the new Constitution, then it shall be the Constitution of the Commonwealth of Pennsylvania, on and after the first day of January, in the year of our Lord one thousand eight hundred and seventy-four; but if it shall appear that a majority of the votes polled were against the new Constitution, then it shall be rejected and be null and void.

4. Five commissioners of election, viz: Edwin H. Fidler, Edward Browning, John P. Verree, Henry S. Hagert and John O. James, are hereby appointed by this Convention, who shall have direction of the election upon the amended Constitution in the city of Philadelphia. The said commissioners shall be duly sworn or affirmed to perform their duties with impartiality and fidelity. They shall also have power to fill vacancies in their own number. It shall be the duty of said commissioners, or a majority of them, and they shall have authority to revise the registration of voters for the several wards or election divisions of said city to correct the same, and to furnish the said corrected lists to the election officers of each precinct or division thereof; to distribute the tickets for said city provided for by this ordinance to be used at the election; to appoint a judge and two inspectors for each election division, by whom the election therein shall be held and conducted, and to give all necessary instructions to the election officers regarding their duties in holding the election

and in making returns thereof. No person shall serve as an election officer who would be disqualified under Section 15, Article 8, of the New Constitution. The general return of the election in the said city shall be opened, computed and certified before them, and with their approval, which approval shall be endorsed upon the return. They shall make report, directed to the President of this Convention, of their official action under this ordinance and concerning the conduct of the said election within the said city.

The judge and inspectors aforesaid shall conduct the election in all respects conformably to the general election laws of this Commonwealth, and with like powers and duties to those of ordinary election officers. Each inspector shall appoint one clerk to assist the board in the performance of its duties, and all the election officers shall be duly sworn or affirmed according to law, and shall possess all the qualifications required by law of election officers in this Commonwealth. At said election any duly qualified elector, who shall be unregistered, shall be permitted to vote upon making proof of his right to the election officers, according to the general election laws of this Commonwealth. Return inspectors and their clerks and hourly count of the votes shall be dispensed with, but overseers of election may be selected for any precinct by said election commissioners, whose duties and powers shall be the same as those of overseers of election in said city under existing election laws applicable thereto. Returns of the election shall be made in said city as in the case of an election for Governor, but a triplicate general return for said city shall be made out and forwarded to the President of the Convention, at Harrisburg, as hereinafter provided in case of county returns.

SECTION 5. In each of the counties of the Commonwealth, (except Philadelphia,) the returns of the election shall be made as in the case of an election for Governor, but the return judges in each county shall make out a triplicate county return, and transmit the same, within five days, after the election, directed to the President of this Convention, at Harrisburg.

Done in Convention this _____ day of _____, 1878.

Mr. BUCKALEW. I ask unanimous consent to add the following at the end of the first section: "and the sheriffs of the

several counties shall give at least twenty days' notice of said election by proclamation."

The PRESIDENT. Will the Convention agree to that amendment? ["Aye." "Aye."] It is agreed to.

Mr. BUCKALEW. I also ask unanimous consent to strike out the word "and" in the beginning of the seventh line of the second section and insert the word "blank," so as to read, "blank returns and circulars of instructions."

The PRESIDENT. Will the Convention agree to that change? ["Aye." "Aye."] It is agreed to.

Mr. BUCKALEW. Now I move a further amendment in the fourth section. In the sixth line of that section, I move to strike out the words "revise the" and insert "make a;" at the end of that line strike out the words "wards or;" in the next line strike out the words, "to correct the same" and also strike out in the same line the words "said corrected," and after the word "lists" insert the words "so made." The clause will then read:

"It shall be the duty of said commissioners, or a majority of them, and shall have authority to make a registration of voters for the several election divisions of said city and to furnish the lists so made to the election officers of each precinct or division thereof."

Mr. KNIGHT. I move as an amendment to the amendment, to strike out the whole of the fourth section and the words "except Philadelphia," in the fifth section.

Mr. DALLAS. On that I raise the point of order, that that is not an amendment to the amendment.

The PRESIDENT. It is not in order. The motion is to go into committee of the whole to make the amendment stated by the delegate from Columbia (Mr. Buckalew.) That motion is not amendable. The delegate from the city can make his motion afterwards.

Mr. BUCKALEW. If I can make myself heard, I will state in a word the reason for this amendment. In the first place, the section is inaccurate in mentioning registrations for wards. They are not to be taken by wards but by precincts. The other change is to strike out "revised registration" and insert "make." The legal registration lists are not obtainable. They are enclosed in the election boxes and stowed away in a vault in this city, and under law they cannot be obtained

for one whole year. But the election commissioners can have complete registration lists made out by getting the returns of the canvassers, copies of which I suppose can be got at the commissioners' office, and by correcting them, make new lists. What they want, however, and what will be necessary is that they shall have power to make a registration because the legal registration lists are locked up in the election boxes.

Mr. LITTLETON. I should like to ask the gentleman a question, with his permission. In the first place, I should like to inquire if he has estimated what the expense of this will be; and in the next place, where is the necessity for a registry at all if you permit an unregistered voter to vote? Why not let us have the polls open and let each man come up and vote?

Mr. BUCKALEW. Why, sir, the registration gives a *prima facie* right to vote. The votes of those whose names are down on the list are received without any question, and a man who is not registered will be obliged to prove his right to vote to the election officers.

Mr. LITTLETON. It will cost a very large sum of money.

Mr. BUCKALEW. This board of commissioners will exercise their discretion, of course, to some extent, as to how they will make the new registration. They can use papers that are in the city commissioners' office, which are not the legal registration, but the foundation of it, and perhaps ascertain what corrections were made upon them by the canvassers, or they can make inquiry in any other way. It will only be their duty to furnish to the election officers registration lists from all the papers that are accessible, and it may be that in a large part of the city, where there is no question about the fairness of the registration, they will use those original papers, making such additions as their attention is called to.

Mr. HANNA. I think the section as we have it before us is sufficient for all practical purposes. Now the gentleman from Columbia proposes to authorize the commissioners to make an entire new registration of all the voters in the city of Philadelphia. In the first place, that will produce great delay. Canvassers must be appointed; they must sit at the respective places selected by this board of commissioners; notice must be given; and in addition to the time consumed,

there will be the large expense involved upon the city of Philadelphia. Now we propose that the election commissioners shall revise the registration lists.

Mr. BUCKALEW. Let me ask the gentleman if he wants the election held with or without a registration?

Mr. HANNA. I propose that the election shall be held upon the lists of voters now in existence. They can be corrected.

Mr. BUCKALEW. I beg leave to remind the gentleman that I explained that it is impossible to get them.

Mr. HANNA. I think the gentleman from Columbia is mistaken. A copy of the list of voters is in the ballot-box; but the city commissioners have the corrected canvassers' lists and the extra assessment list for every division and precinct in the city of Philadelphia, and that list of voters can be corrected. In addition to that, if we propose to say that every person who claims the right to vote can go and vote, whether he is on the list or not, by proving his qualifications, what is the use of this extra registration? I see no occasion for it. If the judge and two inspectors and two clerks are to sit at the election poll, and every voter living in the division can go up and claim the right to deposit his ballot upon showing that he possesses the qualifications of an elector, there is no necessity for the amendment and no necessity for an extra registry. But the present registry upon the books of the city commissioners' office can be the basis for the election. I therefore trust that no correction will be made in this article. It is good enough as it is, bad as it is.

Mr. DALLAS. I only want to say a few words of explanation in addition to what has been said by the gentleman from Columbia. It is undoubtedly true that the registration of voters cannot be obtained at this time in the office of the city commissioners of Philadelphia. The registration of voters as made is locked up in the ballot-boxes which cannot be opened under the law for one year, and it is impracticable to get them. So far as their commissioners whom we have appointed can obtain from the city commissioners, the canvassers lists or any other papers to assist them in the performance of their duties, there will certainly be no objection to the section as proposed to be amended, to use these lists so far as they are found available. We can safely trust the five

commissioners we ourselves have chosen.

One other matter, as to the necessity or use of the registration at all. I myself originally thought that we could get along without it. On reflection, however, I think it would be better that the election officers should have some lists before them which should be *prima facie* or presumptive evidence of a man's right to vote. The registry lists in the city of Philadelphia take the place of the assessors' lists throughout the rest of the State. We have in the city of Philadelphia no regular assessor's list, except a list of property holders as it is called, so that a registration is necessary as a guide to the election officers. This registration list may be made by simply revising the old registration if that can be obtained, and therefore the power of these commissioners should extend to the power to make a new registration, if necessary, although they can use all the old work, so far as they may find it available.

Mr. LITTLETON. I am informed that there are in the city commissioners' office complete lists of those who were entitled to vote at the October election. The canvassers make three lists, one for the election officers, another for the receiver of taxes, on which voters can pay their taxes, and a third which is deposited in the office of the city commissioners. This they have now in their possession, and one of the city commissioners has just informed me of that fact, so that it seems to me it is wholly unnecessary to go to the large expense of a re-registration. Still, it is a question for the Convention to decide; but I do not think that gentlemen have estimated what this will cost, and I do not see any necessity for a re-registration at all.

Mr. DALLAS. A new registration is made at every other election.

Mr. BUCKALEW. This change does not substantially alter the power of the commissioners, but it is necessary to settle the legal *status* of the question. The power to revise registration lists will confer just as much general authority as to make, as I said before, it possible for the commissioners to procure a correct registration of the voters of Philadelphia. This may be done by revising the old lists to a very great extent, or perhaps by revising them altogether.

As to the matter of appointing canvassers to re-enumerate all the inhabitants

of the city, I did not suppose that was intended, but I am willing to leave that whole question to these commissioners themselves. I can understand that there may be accessible papers upon which to found a new enumeration which may be used for such purposes. I would not exclude them, however, from making a new enumeration in any precinct in this city if they thought it necessary to do so. The amendment I have offered is, therefore, proper as a legal proposition, and it only vests a proper discretion in these commissioners.

The PRESIDENT. The question is upon agreeing to the motion to go into committee of the whole in order to make this amendment.

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

The CHAIRMAN. The committee of the whole has had referred to it an "ordinance for submitting the amended Constitution of the State of Pennsylvania to a vote of the qualified electors thereof," for the purpose of making the amendment which the Clerk will read.

The CLERK stated the amendment as follows: Strike out the words "revise the," in the sixth line, and insert the words "make a;" strike out the words "wards or," at the end of the sixth line, and in the middle of the next line, strike out the words "to correct the same," and also the words "the said corrected," and after the word "lists" insert the word "made."

The CHAIRMAN. In obedience to the instructions of the Convention the amendment is made as indicated, and the committee will rise.

The committee of the whole rose, and the President having resumed the Chair, the chairman of the committee of the whole (Mr. Elliott) reported that the amendment had been made in obedience to the instructions of the Convention.

Mr. COCHRAN. I suggest to the gentlemen who have charge of this subject, that the word "them" in the second line from the last of the first division of the fourth section shall be changed to "the said commissioners." The immediately preceding sentence reads:

"No person shall serve as an election officer who would be disqualified under section fifteen, article eight, of the new Constitution. The general return of the

election in the said city shall be opened, computed and certified before them."

I suggest that "the said commissioners" be used in the stead of the word "them."

Mr. DALLAS. Let it be done by unanimous consent.

Mr. BUCKALEW. Certainly. That amendment is made necessary by the insertion of the amendment of the gentleman from Philadelphia (Mr. J. Price Wetherill.)

Mr. COCHRAN. I ask unanimous consent to make the change.

Unanimous consent was given and the change was made.

Mr. ALBICKS. I call attention to the language used in the third line of the second section. It is very inelegantly expressed, and I apprehend it ought to be amended. The language is:

"The commissioners of the several counties shall cause to be prepared printed ballots of affirmative votes to the number of at least three times the number of voters in each county."

I move to amend by striking out the word "prepared" and insert the words "as many" before "ballots," so that the sentence will read: "the commissioners of the several counties shall cause to be printed as many ballots of affirmative votes." Then, in the fourth line, to strike out the words "to the number of at least three times the number" and insert the words "as there are." The sentence will then read:

"The commissioners of the several counties shall cause to be printed as many ballots of affirmative votes as there are voters in each county."

Mr. DALLAS. The sentence is very plain as it is.

Mr. TEMPLE. There was a specific object in so wording this sentence.

Mr. BIDDLE. The amendment will never do. We want three times as many tickets as there are voters in a county.

The PRESIDENT. The question is upon the motion of the gentleman from Dauphin to go into committee of the whole for the purpose of making the amendment he has indicated.

The motion was rejected.

Mr. BUCKALEW. I desire to strike out the word "thereof" in the last line of the first page, in section four. The sentence reads: "and to furnish the said corrected lists to the election officers of each precinct or division thereof."

I move to strike out the word "thereof."

Mr. DALLAS. Yes, let unanimous consent be given for that.

The PRESIDENT. Will the Convention unanimously agree to the change?

Unanimous consent was given and the word "thereof" was stricken out.

Mr. COCHRAN. I would also suggest that in the next to the last line of the fourth section, the word "the" ought to read "this." The phrase "the President of the Convention" should read "the President of this Convention."

Mr. BUCKALEW. That is all right; it should be so amended.

Unanimous consent was given and the amendment was made.

Mr. BUCKALEW. I move to fill the blank with "the third day of November" and to strike out the letters "A. D."

The CLERK. The letters "A. D." are already stricken out, because they were not in the copy furnished to the Printer.

The PRESIDENT. Shall unanimous consent be given to make the amendment indicated?

Unanimous consent was given and the amendment made.

Mr. SIMPSON. I now move to go into committee of the whole for the purpose of inserting in the fourth section, after the word "number," the following words:—

The PRESIDENT. What line is that in?

Mr. SIMPSON. In the fifth line. The words I desire to insert are:

"From the same political party as the person whose vacancy is to be filled."

Mr. H. W. PALMER. Let us vote that down.

Mr. STANTON. That is all provided for.

Mr. SIMPSON. I cannot find it so. I desire that the majority and the minority shall retain their respective places. If one of the minority should happen to resign or die, the majority should not put in one of themselves, and *vice versa*. [Laughter.]

Mr. HAY. This proposition was submitted a day or two ago and was voted down, very properly, by the Convention. This question is not a political question. These commissioners are not appointed as politicians and I hope the whole matter will be left in their hands.

The PRESIDENT. The question is upon the motion of the gentleman from the city to go into committee of the whole and to insert the words he has indicated.

The motion was rejected.

Mr. ARMSTRONG. I suggest that an

instrument of the solemnity which attaches to the work of a great Constitutional Convention ought to be attested at length and it should read instead of "A. D. 1873" in figures, "in the year of our Lord one thousand eight hundred and seventy-three." This should be in words instead of figures. I ask unanimous consent to make that amendment.

Unanimous consent was given and the amendment was made.

Mr. M'CLEAN. I think that this second section should be amended in the manner designated by the gentleman from Dauphin (Mr. Alricks.) His amendment I believe was not understood. The language of this section could certainly be improved by making the sentence alluded to read: "at least three times as many ballots of affirmative votes as there are voters in each county." The amendment was not so put to the Convention although such was the evident design of the gentleman from Dauphin. Certainly the sentence does not read well as it is. It repeats the word "number," making it read "to the number of at least three times the number." I do not think anybody will object to that word "number" being taken out in one place, and I move that the Convention go into committee of the whole to make this amendment.

The PRESIDENT. Do you propose to make the same amendment that was suggested by the gentleman from Dauphin?

Mr. M'Clean. Nearly so, but not quite.

The PRESIDENT. You will then be in order in moving the amendment.

Mr. M'CLEAN. I move to amend the second section in the third line by striking out the word "printed," and after the word "printed" inserting the words "at least three times as many." Then in the next line I propose to strike out the words "to the number of at least three times the number of," and to insert in lieu thereof the words "as there are." The sentence would then read:

"The commissioners of the several counties shall cause to be printed at least three times as many ballots of affirmative votes as there are voters in the county."

Mr. BIDDLE. That is right.

Mr. BROOMALL. Why not include as many negative votes.

The CLERK. That is already provided for. The section follows by saying "and the same number of negative votes."

Mr. BROOMALL. Let me hear the whole section read as it is proposed to be amended.

The CLERK read as follows:

"2. The Secretary of the Commonwealth shall, at least twenty days before the said election, furnish to the commissioners of each county a sufficient number of properly prepared circulars of instructions. The commissioners of the several counties shall cause to be prepared three times as many ballots of affirmative votes as there are voters in each county, and the same number of negative votes; and the said commissioners shall, at least five days before said election, cause to be fairly distributed to the several election districts in their respective counties, the said ballots and blanks, tally-lists and returns and circulars of instructions. The ballots shall be printed or written in the following form: On the outside the words 'New Constitution;' in the inside, for all persons giving affirmative votes, the words 'For the New Constitution,' and, for all persons giving negative votes, the words 'Against the New Constitution.'"

Mr. BROOMALL. That is right.

The PRESIDENT. How will the House vote on this amendment?

Mr. DALLAS. Let it be done by unanimous consent.

Unanimous consent was given and the amendment was made.

Mr. CASSIDY. I want to suggest an amendment to the second section which I think, if I am right, will be unanimously agreed to. That is to strike out the words "the blanks" wherever they occur, so as to make the section read: "The said ballots, tally-lists, and returns and circulars of instructions." Then I move to insert the additional words "and such other blanks as may be necessary." If we undertake to indicate the papers that are necessary, we are likely to omit some of them.

The PRESIDENT. The question is on the article.

Mr. KNIGHT. I should like to say a word on this article. I rise to enter my protest against the fourth section, and if in order, I will make a motion to strike it out.

The PRESIDENT. It is in order to move to go into committee of the whole to strike it out.

Mr. KNIGHT. I move to go into com-

mittee of the whole for the purpose of striking out the fourth section.

Mr. President, I cannot understand why Philadelphia should be singled out from the rest of this Commonwealth and this insult cast upon her citizens. When the country stood in need of soldiers she was ready to give her fifty thousand men. When the soldiers from all parts of the country passed through Philadelphia, she fed them from her volunteer saloons. When any other great thing was wanted from any section of this Commonwealth, Philadelphia was always ready with her money and her patriotism. Now, sir, when we come into this Convention, a portion of its members propose to cast a stigma upon the character and honesty of the citizens of Philadelphia. I say, as one of the delegates on this floor, that I am bound to stand up for the people who sent me here. Will the delegates here from either party acknowledge that they have been sent into this hall on fraudulent votes? If they will, let them get up and show themselves and say so like men, not come here and take seats in this hall and say that they were properly and honestly elected and then vote that the people are not worthy of being trusted. That is the question.

Sir, when the distinguished delegate from Centre, (Mr. Curtin,) gets up here and advocates this section and says that we are the supreme power, that we represent the four millions of people in this Commonwealth boiled down to one hundred and thirty-three. I say if that is the case let us proclaim this Constitution; let us say that it is the Constitution of the people, and we want no voting and no expense upon it. If that is the case let the citizens of Philadelphia be put upon a platform with the citizens of other parts of this State.

Now, sir, what does this section require? It requires that we shall appoint commissioners, that they shall supervise this whole election, that they shall take all the power away from the regularly organized election boards so far as this city is concerned. We have with very few exceptions acknowledged the power that sent us here, that was the power of the Legislature and the people. We did with some slight exceptions change the Bill of Rights. I have advocated myself that we had no power to go beyond what was given to us by the Legislature and the people. Now, we are assuming to our-

selves the power of an entire revolution so far as this city and county is concerned.

Without going further, because I know I am in a minority and may not be supported, I desire to say here before this Convention and the citizens of Philadelphia, that I consider it not only a gross, downright insult upon their character, but upon their honesty.

Sir, the time was when the parties in this city were so equally divided that this action would not have been called for, but to-day it so happens, if I may speak of it, that the party which supported this government in the time of its troubles are greatly in the majority, and what made them so? Because while one party during the great rebellion was positive another party may have been to a certain extent negative, and the loyal class of this community came into the ranks of the positive party, and if gentlemen then saw proper to stand back and remain out in the cold, that is their fault and misfortune and not mine. But I am quite indignant that we should undertake to pass a stringent law of this kind for the citizens of Philadelphia, when we do not ask it for the other parts of the State.

Mr. BOWMAN. Mr. President: I have no doubt that it is a foregone conclusion that this fourth section is to pass, but I am unwilling that this section should be incorporated into a part of our work here without placing myself upon the record in as emphatic terms as I can as entering my protest against it.

I do not believe, sir, that we have the power to revolutionize, repeal and disorganize laws and boards of election in any part of this Commonwealth. I listened the other day to the very eloquent remarks of the gentleman from Centre, who said that this body was composed of the king bees of the State. I would remind that gentleman that all sovereignty is with the people, and I do not believe that they elected one hundred and thirty-three men to be the generalissimos or the king bees of the great hive of the people of this Commonwealth. Sir, I regard this as revolutionary. Why do you make the city of Philadelphia an exception? If you possess the power to select in this ordinance a commission of five commissioners for Philadelphia you would have the power to do the same thing throughout the State.

Now, sir, suppose you were to say that

the present constituted boards of election under the law shall step aside, and their places shall be filled by other men who may be appointed by a commission that this Convention may elect throughout the State, you would have trouble all over the State. Could you go into every election precinct and election district in this State and say to the constituted authorities: "Stand aside and let other men come in and discharge the duties that you were elected to discharge?" Why do you not do it in Luzerne county; why do you not do it in Allegheny county; why do you not do it in the sections of the State outside of the city of Philadelphia? Sir, I do not believe we possess this power. But suppose we did; I believe it to be impolitic; I believe it to be to be unjust; I believe that it will array such a feeling of hostility against our work that instead of your accomplishing the good that I have no doubt you all have in view, you will commit a most egregious error; you will array voters by the thousand against your work.

Why, sir, since this proposition has been pending before this body and since it passed the committee of the whole, I have been in conversation with three men residing in this city, occupying official position. Those individuals unhesitatingly denounce this as a wrong about to be perpetrated upon the people of Philadelphia. What do you do here? You ignore the principle that prevails in your courts of justice, that every man is presumed to be innocent until he is proven to be guilty. You start out here upon the supposition that the present members of the boards of election in the city of Philadelphia, receiving their appointment from the board of aldermen under the law, are dishonest men, unfit to discharge the duties imposed upon them by law. You start out with that broad assumption and you carry it through by saying that they shall be displaced and that other men shall be appointed by these five commissioners to fill their places.

I believe it is unjust, and without taking up further time of the Convention, I wish to enter my protest against it. I was one of the fifteen who voted against it, and I will always vote against such an unjust discrimination as I believe this to be.

Mr. HOWARD. Mr. President: I had

supposed that this arrangement in regard to Philadelphia had been assented to by the members of this body from this city, and I believe that I express the sense of this Convention when I say to the delegate from the city (Mr. Knight) that there is not a delegate on this floor who believes that he offers an insult to the citizens of Philadelphia when he votes for this proposition. I would readily vote for any proposition if the Convention think there are any reasons why the rule should be changed in regard to any other county. The act of Assembly is clear in regard to the rights of this Convention. It is no violation of the law to say that this Convention controls the time and the manner of the submission of this Constitution to the vote of the people, because that is the act of Assembly. Often has it been asserted upon the floor that elections in the city of Philadelphia are supposed, at least sometimes, not to be conducted fairly. I know nothing about the fact. I have had, personally, nothing to do with this question, further than to vote for this proposition on its first and second reading. I have voted for it because I understood that the delegation from Philadelphia were satisfied with it and they believed it was a better mode by which to submit the Constitution to the citizens of Philadelphia for their votes.

I can see no reason why this proposition should be denounced. Is it not a fair one? These gentlemen have been selected by the delegation from Philadelphia themselves, and I want that to go into the debates. The declarations of the delegates from Philadelphia are to go there also, and I want the people of Philadelphia to know and understand that their own delegation selected these men and we endorsed them as a matter of form because it was regular that the Convention should do so.

The PRESIDENT. The question is on the motion of the delegate from Philadelphia (Mr. Knight.)

Mr. HANNA. I call for the yeas and nays.

Mr. BOWMAN. I second the call.

The yeas and nays were taken and resulted as follows:

Y E A S .

Messrs. Addicks, Ainey, Bowman, Boyd, Broemall, Corson, Darlington, Ewing, Fell, Hanna, Knight, Lawrence, MacConnell, M'Michael, Mann, Minor, Niles, Patterson, D. W., Purviance, John N.,

Stanton, White, D. N. and White, Harry —22.

N A Y S .

Messrs. Achenbach, Alricks, Andrews, Armstrong, Baer, Bally, (Perry,) Bailey, (Huntingdon,) Barclay, Biddle, Bigler, Black, Brodhead, Brown, Buckalew, Bullitt, Calvin, Campbell, Carey, Cassidy, Church, Cochran, Corbett, Cronmiller, Curtin, Cuyler, Dallas, Davis, De France, Dunning, Edwards, Elliott, Funck, Gibson, Gilpin, Guthrie, Harvey, Hay, Hazard, Hemphill, Heverin, Horton, Howard, Kaine, Lambertson, Landis, Lilly, Long, M'Clean, M'Culloch, M'Murray, Mantor, Mott, Palmer, G. W., Palmer, H. W., Patton, Porter, Purman, Read, John R., Reed, Andrew, Reynolds, Ross, Runk, Russell, Simpson, Smith, H. G., Smith, H. W., Smith, Wm. H., Struthers, Temple, Turrell, Van Reed, Wetherill, J. M., Wetherill, J. Price, Wherry, Woodward, Worrell and Walker, *President*—77.

So the motion was not agreed to.

ABSENT. — Messrs. Baker, Bannan, Bardsley, Barr, Bartholomew, Beebe, Carter, Clark, Collins, Craig, Curry, Dodd, Ellis, Finney, Fulton, Green, Hall, Hunsieker, Lear, Littleton, MacVeagh, M'Camant, Metzger, Mitchell, Newlin, Parsons, Patterson, T. H. B., Pughe, Purviance, S. A., Rooke, Sharpe, Stewart, White, J. W. F. and Wright—34.

The PRESIDENT. The question is on the passage of the ordinance.

Mr. BOWMAN. One word on the ordinance. I want gentlemen to understand that this Convention has this morning, by resolution offered by the gentleman from Columbia, appropriated \$5,000 or so much thereof as may be necessary to carry out the provisions of the fourth section of this ordinance, and I think it is not extravagant to say that before the provisions of this ordinance are fully and completely carried out, delegates are voting to take \$25,000 out of the State Treasury to compensate these commissioners and the members of the board of election in the city of Philadelphia alone, and the people of the other parts of the State have no interest in it whatever. It is simply taking their money to pay the expenses incident to carrying out the provisions of this most obnoxious fourth section.

Mr. BUCKALEW. I desire to make one explanation in connection with the matter of expense. By dispensing with return inspectors and their clerks we save about \$8,000 in that one item alone.

Mr. BOWMAN. But, if the gentleman will allow me, in doing that—

Mr. BUCKALEW. I beg leave to say that I am explaining to the Convention, not to the gentleman from Erie.

Mr. BOWMAN. And I beg to say that I am answering the gentleman to the Convention through the Chair. The \$8,000 that the gentleman talks about saving is a saving to the citizens and taxpayers of the city of Philadelphia, and he is taking this money out of the State Treasury. There is the difference.

The PRESIDENT. The question is on the passage of the ordinance.

The ordinance was passed.

Mr. BUCKALEW. I desire to offer an order in connection with this ordinance, but I have mislaid it. I will get it in a moment.

ARTICLE ON RAILROADS.

Mr. COCHRAN. I ask the unanimous vote of the Convention to insert in the third line of the fifth section of the article on Railroads and Canals, after the word "lease" the word "or" and after the word "purchase" the word "of." It is a mere verbal alteration.

The PRESIDENT. Will the Convention unanimously agree to that change?

Mr. BOYD. No.

Mr. DALLAS. I do not believe the proposition is understood. It ought to be agreed to.

Mr. BOYD. Does it require unanimous consent or not?

The PRESIDENT. Unquestionably it does.

Mr. BOYD. I object.

The PRESIDENT. Objection is made.

SIGNATURES TO CONSTITUTION.

Mr. D. N. WHITE. I ask the attention of the Convention for a few moments to a resolution I wish to offer. It is in regard to the preparation of the Constitution for signatures. On Saturday night it was handed to the printer to print. I have just been around to see him, and he will not have it ready for signature before Wednesday. I therefore offer the following resolution:

"Resolved, That the President and Chief Clerk and Messrs. Knight and Bidle be a committee to superintend the preparation of the new Constitution for the official attestation of the President and Chief Clerk, and that the signatures of the members taken on two separate sheets in open Convention, one for the

Secretary of the Commonwealth, and the other for the Pennsylvania Historical Society, be attached by said committee after the signature of the President is appended."

The question being put, the Convention refused to order the resolution to a second reading.

PAPER ACCOUNT.

Mr. HARRY WHITE. I move that the Convention proceed to the consideration of the report of the special committee on publication of the Constitution.

Mr. HAY. I claim the right to present a report. That comes first in order.

The PRESIDENT. The Chair will receive the report. It will be read.

The CLERK read as follows:

"The Committee on Accounts and Expenditures of the Convention respectfully reports:

"That a bill of W. W. Harding, for three hundred reams of paper furnished under his contract with the Convention, amounting to twenty-two hundred and fifty dollars has been presented to the committee. It appears from the receipt and certificate of B. Singerly, thereto attached, that he has received the said paper and that the same is fully equal to that required by the contract with Mr. Harding; and from the certificate of J. W. M. Newlin, chairman of the Committee on Printing and Binding, that the same has been approved by said committee to the extent of fifteen hundred dollars, it is reported that so much of the said bill should be paid. The following resolution is accordingly reported:

"Resolved, That the above mentioned account of W. W. Harding, to the amount of fifteen hundred dollars is hereby approved; and that a warrant be drawn upon the State Treasurer in favor of W. W. Harding for the said sum on account of paper supplied under his contract."

The resolution was read twice and adopted.

AMENDMENT OF CORPORATION ARTICLE.

Mr. BULLITT. I will now ask leave of the Convention, following the suggestion that I made on Saturday, to make a motion in regard to the right of appeal from the preliminary assessment of damages. If members will look at section six of article sixteen on 'Private Corporations,' they will find that the last clause in that section provides that there shall be an appeal from any preliminary assessment

of damages against a corporation by viewers or otherwise. That section is under the head of "Private Corporations," and it appears to me that the right of appeal applies, therefore, only to a private corporation, and does not apply to municipal corporations or to individuals who may be invested with the power of taking private property for public use. Then if members will turn to section eight of the same article, they will find a provision in reference to municipal and other corporations and individuals invested with the privilege of taking private property for public use. I therefore suggest that the last division of section six, beginning at the word "the" and ending with the word "jury," be stricken out, and I will send up that which I propose as an amendment to section eight.

Mr. BOYD. Does not this require unanimous consent?

Mr. BULLITT. I ask unanimous consent.

Mr. EDWARDS and Mr. HARRY WHITE. I object.

The PRESIDENT. The resolution will be read for information.

The CLERK. It is proposed in section six of article sixteen, on Private Corporations, to strike out the clause beginning with the word "The" in the third line and ending with the word "jury" in the sixth line and adding at the end of section eight in the same article the following:

"The General Assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise, and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury according to the course of the common law."

Mr. BOYD. I object.

The PRESIDENT. Objection is made.

Mr. HARRY WHITE. If that proposition is before the body, it can only be passed by unanimous consent.

The PRESIDENT. It has been objected to.

Mr. HARRY WHITE. It was read for information. I ask for an explanation of the reason for introducing this provision. I do not want to make a facetious objection if it is a matter of substance.

Mr. BULLITT. I will explain it to the Convention.

Mr. BUCKALEW. This was an over-

sight in the revision which ought to be corrected. We have two sections on the same subject in the same article, and the gentleman from Philadelphia has got it right, if the Convention will take my word for it. It is to transfer the clause from one of the sections to the other, so that this provision in regard to jury trials shall cover what it was intended.

Mr. HARRY WHITE. I withdraw my objection.

Mr. EWING. I wish to make an inquiry. I desire to ascertain what effect the adoption of this proposition will have as regards delay in having the Constitution ready for our signature. If it will make any delay, I, for one, shall object to it; if not, I think it ought to be agreed to.

The PRESIDENT. It will make no delay at all. Will the Convention agree to the amendment suggested by the gentleman from the city (Mr. Bullitt.)

Mr. BOYD. Does that require unanimous consent?

The PRESIDENT. It does.

Mr. BOYD. Then I object.

Mr. BUCKALEW. I move that the proposition of the gentleman from the city be referred to the Committee on Revision and Adjustment.

Mr. HARRY WHITE. I raise a question of order on that motion. I want this clause to go in. I do not know that any appeal I can make will have any effect, but I certainly think if there is anything fair and right, it is the provision which the gentleman from Philadelphia desires to have inserted—

Mr. BOYD. I rise to a point of order. Is this question debatable?

The PRESIDENT. The Chair has decided that if there be objection it cannot be made in that way.

Mr. PURMAN. Is not the motion to refer to the Committee on Revision and Adjustment in order? Cannot that be done? I move that the proposed amendment be referred to the Committee on Revision and Adjustment.

Mr. HARRY WHITE. I rise to a point of order. My point of order is that the Chair has just decided that it now requires unanimous consent to place anything in this Constitution, and unanimous consent is not given, I am sorry to say. Now I submit that you cannot accomplish by indirection what cannot be done directly, and the motion to refer to the

Committee on Revision and Adjustment will amount to nothing.

Mr. PURMAN. The proposition is not to be put in a new article or a new section in an article, but to adjust two sections in an article. Therefore it can be referred for adjustment to the Committee on Revision and Adjustment without the unanimous consent of the body. It is not changing the substance; it is only changing the locality of the clause, as I understand; and the Committee on Revision and Adjustment can report it back immediately and the whole matter be disposed of in five minutes.

Mr. LILLY. The Committee on Revision and Adjustment have made their final report on this article; we acted on that report last Saturday evening; it has gone to the printers; and I submit that the matter is now beyond our reach.

Mr. STANTON. Would it be in order to suspend the rules for the purpose of adopting this amendment?

The PRESIDENT. It would not. The only doubt with the Chair is whether the Committee on Revision and Adjustment having made their report and that report having been accepted and acted upon, we can accomplish indirectly what we cannot do directly. The Chair is very desirous to have the amendment made. He thinks it ought to be, and he will stretch a point as far as possible in order to accomplish it, and satisfied that the matter is right, the Chair will entertain the motion. He would not do it if he did not feel that we were making a blunder in not doing it.

Mr. DE FRANCE. I desire to say a word. It seems to me that this proposed amendment will make no difference at all. What is a jury? Does the legal definition of a jury mean anything but twelve men? The section provides that there can be no trial except by jury. What is the meaning of that? It means by the course of the common law; it means a jury by the common law. There are no other juries. There are no legal definitions of a jury except twelve men. That is what it means.

The PRESIDENT. The Chair will entertain the motion. He does it in order that our Constitution may go as perfect from our hands as possible. The question is on referring this matter to the Committee on Revision and Adjustment.

Mr. AINEY. I call for the yeas and nays.

Mr. EDWARDS. I second the call.

Mr. AINEY. I do not want to open the door in this way.

The PRESIDENT. The yeas and nays will be taken.

The yeas and nays were taken, and resulted as follows:

Y E A S .

Messrs. Achenbach, Addicks, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Barclay, Barr, Beebe, Biddle, Bigler, Black, Bowman, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Carey, Cassidy, Church, Cochran, Cronmiller, Cuyler, Dallas, Davis, Dunning, Ewing, Gilpin, Guthrie, Hanna, Harvey, Hay, Hazzard, Hemphill, Heverin, Horton, Kaine, Lamberton, Lawrence, Littleton, Long, MacConnell, M'Clean, M'Murray, Mantor, Minor, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patton, Porter, Purman, Purviance, John N., Reed, Andrew, Ross, Runk, Russell, Smith, Henry W., Smith, Wm. H., Stanton, Temple, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price, Woodward, Worrell and Wright—72.

N A Y S .

Messrs. Ainey, Baker, Boyd, Clark, Darlington, De France, Edwards, Howard, Landis, Lilly, M'Colloch, Mann, Pughe, Simpson and White, David N.—15.

So the motion to refer was agreed to.

ABSENT.—Messrs. Bannan, Bardsley, Bartholomew, Campbell, Carter, Collins, Corbett Corson, Craig, Curry, Curtin, Dodd, Elliott, Ellis, Fell, Finney, Fulton, Funck, Gibson, Green, Hall, Hunsicker, Knight, Lear, MacVeagh, M'Camant, M'Michael, Metzger, Mitchell, Mott, Newlin, Niles, Parsons, Patterson, T. H. B., Purviance, Sam'l A., Read, John R., Reynolds, Rooke, Sharpe, Smith, H. G., Stewart, Struthers, Wherry, White, Harry, White, J. W. F. and Walker, *President*—46.

Mr. EWING. I move that the Committee on Revision have leave to sit during the session of the House, and that they be directed to report at the earliest possible moment.

AMENDMENT OF RAILROAD ARTICLE.

Mr. COCHRAN. I move that section five of the article on Railroads and Canals be amended, in the third line, by inserting the word "or" between the words "lease" and "purchase," and the

words "the works of" after the word "purchase;" and that the motion be referred to the Committee on Revision and Adjustment.

Mr. DALLAS. Mr. President: I hope this motion will prevail, if I may be allowed to say a word upon it. It proposes to amend the fifth section in such a way as to prevent this—

Mr. BOYD. Is debate in order? If it is not, I object.

Mr. DALLAS. The motion is to refer to the Committee on Revision and Adjustment. I ask if it is not debatable?

The PRESIDENT. Certainly.

Mr. DALLAS. The gentleman from York proposes an amendment which he moves to refer to the Committee on Revision and Adjustment. Now I ask if I have not the right to be heard on that?

The PRESIDENT. Certainly, the right when it gets before the House. It is not yet before the House.

Mr. MANN. I should like to have the point of order read which was decided the other day upon this very question. I understood the Convention to decide a few days ago on the motion of the gentleman from Montgomery, (Mr. Hunsicker,) that it was not in order to amend any article of the Constitution by referring it to the Committee on Revision and Adjustment.

Mr. DALLAS. A similar motion to amend has just prevailed in this House.

Mr. MANN. I ask for the reading of the point of order then made and decided.

The PRESIDENT. The Chair was fearful that in his ruling a moment since he might commit an error which would lead to confusion; and now he is sorry he made the decision that he did.

SEVERAL DELEGATES. Withdraw it.

Mr. DALLAS. The motion now is to refer this amendment to the Committee on Revision. If the House will hear me, they will see that it is equally important with the other for the credit of the Convention that this amendment should be made. There is language in the section that the gentleman from York wants to have changed that rises to the point of absurdity, if it is not an error.

Mr. BOYD. Is debate in order?

The PRESIDENT. Debate is not in order until there is something before the House.

Mr. DALLAS. Then I call for the question on the motion.

Mr. MANN. I rise to a point of order that the motion of the gentleman from York is in violation of the order of this Convention made the other day on the motion of the gentleman from Montgomery.

ORDINANCE OF SUBMISSION.

Mr. BUCKALEW. I desire, before the committee retire, to ask unanimous consent of the Convention to make an order in connection with the ordinance of submission, which I will send to the Chair.

Mr. COCHRAN. Is not my motion pending? It is in the Clerk's hands.

The PRESIDENT. It is in the Clerk's hands.

Mr. BUCKALEW. I ask unanimous consent to have this order made:

Ordered, That the ordinance of submission be signed by the President of this Convention and attested by the Chief Clerk, and that certified copies thereof be furnished to the Secretary of the Commonwealth, the Public Printer and the commissioners of election of Philadelphia.

The order was agreed to.

AMENDMENT OF RAILROAD ARTICLE.

Mr. COCHRAN. Now, Mr. President, I ask for action on my motion.

The PRESIDENT. The delegate from York makes a motion which will be read.

The CLERK. The motion made by Mr. Cochran is as follows:

"That section five of the article on Railroads and Canals be amended, in the third line, by inserting the word 'or' between the words 'lease' and 'purchase,' and the words 'the works of' after the word 'purchase;' and that this motion be referred to the Committee on Revision and Adjustment."

Mr. BROOMALL. Mr. President: I rise to a point of order that that requires to be done by unanimous consent, if at all, and if it is a mere verbal amendment the Committee on Revision and Adjustment have power to do that now.

The PRESIDENT. Not now; they have made their report.

Mr. HOWARD. It is a mere verbal amendment, not an amendment of substance.

Mr. BOYD. I say it is an amendment of substance.

Mr. CUYLER. I rise to a point of order to distinguish this from the case of the gentleman from Philadelphia, (Mr. Bullitt,) acted upon a moment ago. This is

the insertion of new substantive words into the Constitution. The other was a simple transposition of certain words from one place to another. ["No." "No."] So I understood it.

Mr. DALLAS. I submit first that that is a mistake. The words offered by Mr. Bullitt were in great part entirely new language, and now upon the motion of the gentleman from York I desire to state this—

Mr. BOYD. Is this debatable?

Mr. DALLAS. I claim the floor.

The PRESIDENT. There is nothing before the body for the Chair to decide for debate to arise on.

Mr. BOYD. Then I object.

The PRESIDENT. The Chair is anxious to know what the proposition of amendment is.

Mr. DALLAS. I simply desire to state that—

The PRESIDENT. If it is a similar one to the one he has just ruled in he can allow it to come in. If it is a different one and introducing a new word, the Chair will rule it out of order.

Mr. DALLAS. First, the amendment of the gentleman from Philadelphia did introduce new words. Second, the amendment now proposed by the gentleman from York is simply an amendment in matter of form to make the sentence read properly instead of absurdly. Now, I ask the Convention to listen to what it is.

Mr. BOYD. Is that in order?

Mr. DALLAS. I thought I was fully in order.

The PRESIDENT. We cannot pursue strict order in questions of this character. I am very anxious that our instrument shall be right, and I will do what I can to make it right riding over rules if necessary. [Applause.]

Mr. DALLAS. That is the only anxiety now. The words of this section as they now read are: "No railroad, canal or other corporation, nor the lessees, purchasers or managers of any railroad or canal corporation, shall consolidate the stock, property or franchises of such corporation, with, or lease, purchase, or in any way control any other railroad or canal corporation."

Who ever heard of leasing or purchasing a corporation? The gentleman proposes to make it read that they shall not lease the works of other corporations, or in any other manner control such other

corporation. That is all that is desired and it is all that is necessary to make it proper.

The PRESIDENT. I suppose every gentleman will agree to that.

Mr. BOYD. No; I do not.

Mr. BOYD. I say it is a change in substance, and therefore I object to it unless it goes through the regular consideration of the various readings.

The PRESIDENT. It is a motion such as suggests itself to the Chair to be proper, and he entertains it.

Mr. CUYLER. The gentleman from Philadelphia asks who ever heard of leasing a corporation. I say to him that what is leased always is the franchises of a corporation. It is not "the works," in the ordinary and restricted sense of the word, that are leased; it is the franchises which are made the subject of lease, purchase, or passage under the control of another party. The words, therefore, are literally and exactly correct as they stand. They would be more restricted by the introduction of the proposed amendment than they are as they are written upon the face of the instrument now.

The PRESIDENT. The Chair will in this case entertain the motion. The question is on referring the motion to the Committee on Revision and Adjustment.

The question being put, a division was called for, and the yeas were forty-two.

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

Mr. COCHRAN. I second the call.

Mr. BIDDLE. Mr. President: Unless we put in the word "franchises" we limit it by introducing the word "works." It is better as it is unless we include franchises, and I caution all gentlemen who are in favor of the spirit of this section not to vote for this re-reference unless the word "franchises" is introduced along with the word "works." It will narrow and weaken the force of the section.

Mr. COCHRAN. I modify the motion by adding the words "or franchises" after the word "works."

The PRESIDENT. The motion is so modified, and the question is on referring the motion as modified to the Committee on Revision and Adjustment. The Clerk will call the names of delegates on that reference.

The yeas and nays were taken and resulted as follow:

Y E A S .

Messrs. Achenbach, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Beebe, Biddle, Black, Broomall, Brown, Buckalew, Bullitt, Calvin, Campbell, Carey, Church, Cochran, Dallas, Davis, Ewing, Funck, Gibson, Gilpin, Guthrie, Harvey, Hay, Hazzard, Hemphill, Heverin, Horton, Landis, Lawrence, Long, M'Clean, M'Culloch, M'Murray, Mott, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patton, Pughe, Purman, Purviance, John N., Read, John R., Reed, Andrew, Reynolds, Ross, Russell, Struthers, Turrell, Wherry, White David N., Wright and Walker, *President*—58.

N A Y S .

Messrs. Barclay, Barr, Bigler, Bowman, Boyd, Brodhead, Cassidy, Clark, Cronmiller, Cuyler, Darlington, De France, Edwards, Elliott, Fell, Hanna, Howard, Kaine, Knight, Lamberton, Lilly, Littleton, MacConnell, M'Michael, Mann, Niles, Porter, Rooke, Runk, Simpson, Smith, Henry W., Smith, Win. H., Stanton, Wetherill, J. M., Wetherill, John Price, White, Harry, Woodward and Worrell—38.

So the motion to refer was agreed to.

ABSENT.—Messrs. Addicks, Ainey, Bannan, Bardsley, Bartholomew, Carter, Collins, Corbett, Corson, Craig, Curry, Curtin, Dodd, Dunning, Ellis, Finney, Fulton, Green, Hall, Hunsicker, Lear, MacVeagh, M'Camant, Mantor, Metzger, Minor, Mitchell, Newlin, Parsons, Patterson, T. H. B., Purviance, Samuel A., Sharpe, Smith, H. G., Stewart, Temple, Van Reed and White, J. W. F.—37.

TAKING OF PRIVATE PROPERTY.

Mr. BUCKALEW. I ask leave to make a report at this time.

Leave was granted and the report was read as follows:

"The Committee on Revision and Adjustment, to whom was referred the article on Private Corporations for the purpose of special amendment report:

That they have stricken from section six of said article the following: "The General Assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals, made by viewers or otherwise, and the amount of such damages, in all cases of appeal shall, on the demand of

either party, be determined by a jury, according to the course of the common law." And added the same to the end of section eight.

The PRESIDENT. Will the Convention adopt the report of the Committee on Revision and Adjustment?

The report was adopted.

EXPENSES OF EXECUTIVE COMMITTEE.

Mr. BIDDLE offered the following resolution, which was read twice and considered.

"Resolved, That the reasonable and necessary expenses incurred by the Executive Committee shall be reported to the Convention at Harrisburg for its approval after settled by the Committee on Accounts and Expenditures, and that the President of the Convention be authorized and directed to draw his warrant, countersigned by the Chief Clerk, in favor of said committee for any sum not exceeding \$5,000 to be used and expended for the proper expense of said committee.

Mr. EWING. I have very little doubt but that this resolution will pass, though I shall vote against it for several reasons.

In the first place, in my judgment the raising of this committee was a matter of very doubtful propriety. It would have been very well for the members of the Convention, outside of the Convention, to have organized themselves into this committee and it would have been very proper. This committee is however the Executive Committee of this Convention for the purpose of carrying an election and nothing more. It is an electioneering committee, and when this Convention fails to recognize the fact that throughout the Commonwealth, very large numbers of citizens, conservative, reliable men are opposed to the adoption of any Constitution we may make and who were originally opposed to the calling of this Convention, will be opposed to this action, they will fail to recognize what is certainly a fact. These citizens, however small in number they may be, have just the same rights that any of the citizens have who are in favor of the adoption of this Constitution; and when we take the public money and undertake with it to secure the adoption of the Constitution, we have framed, we use that money for electioneering purposes. *It cannot be for anything else*, and in this action we are guilty of just as gross an outrage on the rights of the minority, or of the parties who are opposed to this

Constitution, as would a majority of the Legislature, whether republican or democratic, which would appropriate the public money to the executive committee of its party.

Another thing, we have already agreed to appropriate more money than the Legislature has appropriated for the expenses of this Convention, and where is this to come from. I have understood, all along, that these gentlemen on the Executive Committee would do just as any other Executive Committee would and raise whatever money was needed for their work outside of the Convention and outside of public funds, even if they had to put their hands into their own pockets and pay it themselves.

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

Mr. EWING. Certainly.

Mr. BOWMAN. Does he not know that when this original resolution was offered for the raising of this committee it was stated in the body of the resolution that it was to be without expense?

Mr. EWING. I thought I had so stated. It was in the original resolution. If the Clerk will examine it he will so find and that was the statement at the time by those favoring this committee.

Mr. BOWMAN. I voted for the resolution raising this committee upon the express understanding, as was worded in the resolution, that it should be without expense to the Commonwealth. We are now met here with a resolution appropriating five thousand dollars to defray the expenses of that committee. It is said by the gentleman from Allegheny, who has just taken his seat, (Mr. Wm. H. Smith,) that this money is not to be used for electioneering purposes but that it is intended to defray the expense of printing the Constitution. Let us see. We have already adopted a resolution ordering the printing of twenty-one thousand copies of the Constitution in pamphlet form. We have another resolution now lying on the table offered by the gentleman from Indiana, (Mr. Harry White,) providing for the publication of the Constitution in supplemental form, in each newspaper in the Commonwealth, to be sent broadcast over the State, for which each newspaper publisher is to receive one cent and a-half per copy or fifteen dollars per thousand. We have done all that, and now it is proposed to appropriate many thousands more, to pay the ex-

penses of printing! I am opposed to this. I was opposed to it from the beginning to the ending, and I stand in the same position, I think, as other gentlemen here do who voted for the original resolution. Why this out-Herods Herod. We are beating the Legislature over and over again in extravagance and expenditure. They are nowhere. Hereon the very eve of our adjournment, it is proposed to take twenty-five thousand dollars to defray the expenses of your commission in Philadelphia. It will take that and more too, and now it is proposed to take five thousand dollars more to defray the expenses of the Executive Committee of this Convention. And this is a reform Convention! This is a Convention to save the people forsooth! I hope the resolution will be voted down.

Mr. DARLINGTON. I am decidedly opposed to this resolution, I think that no man can say this is not intended for the purpose of urging upon the people the adoption of our Constitution. While I am myself in favor of the Constitution, and while I am willing to go to the people and speak to them upon the subject, we cannot deny that there is a large portion of the people who are opposed to our work, and I will never consent to an appropriation for the purpose of spending the money of the people of this Commonwealth for a party purpose. This is a party purpose. I do not use the word in the sense in which it is commonly used as between one political party and another; but this clearly is intended to use the public money for a party purpose, to carry the Constitution by the friends of it against the party opposed to it. I am opposed to this resolution. It is uncalled for. It is unnecessary. It is without precedent. No such thing has ever before been done in this Commonwealth and I hope it will not be done now.

Mr. HOWARD. I desire to say a word of explanation.

Mr. GUTHRIE. I think we should stop this debate which is very injurious to the Constitution; I am totally opposed to the resolution of the gentleman from Philadelphia, and I move to lay it on the table.

Mr. BIDDLE. It is certainly very gratifying to find this jealous watchfulness over the moneys of the people which, while it is commendable in itself, is particularly commendable at this time. I thank the gentlemen who have spoken in that direction, very much; but I supposed when

we raised the committee we meant something by our action, and when we told them that they were to do certain things, involving the expenditure of money, I supposed we told them so in good faith. We meant that what they fairly expended under the scope of their appointment would be defrayed by this Convention after the expenses were audited.

I can very well understand why the gentleman from Allegheny (Mr. Ewing) who spoke first in opposition to this resolution should speak and vote against it, because he prefaced his remarks with the statement that he was altogether opposed to the raising of the Executive Committee. The argument he made would, however, be more in place on that question than on this. It is out of place here. This House has raised the committee, and therefore any argument drawn against the appropriateness of its appointment has no place in the discussion of the merits of this resolution.

I think the gentleman from Erie (Mr. Bowman) who supposes that this limitation was in the language of the original resolution is altogether mistaken. There was no such limitation at all, and if he still thinks so, I ask to have the resolution read.

Mr. BOWMAN. It certainly was so stated on the floor.

Mr. BIDDLE. It may have been stated, possibly, by some gentleman, but there is no such limitation in the resolution itself. We go here by what is written and by what was done, and not by what was said.

Do not let us misapprehend the question. This appropriation is not asked to the extent of a single dollar to defray any personal expenses of the members of the committee. That certainly, would be out of place; and I had no intention myself in offering this resolution to propose anything of the kind. This appropriation is for their expenditure under their action as members of the Executive Committee. Now the argument of the gentleman from Chester is a little remarkable. He likens the action of this Executive Committee to the action of a political executive committee, and says it would be unfair in the extreme because a large number of the people of this Commonwealth are, in his opinion, opposed to the new Constitution, that we should spend the money of the public in this manner. Why, what have we done here for nearly a year? What

have we been spending money for the last year in the appropriate work of this Convention that would not equally fall under his condemnation, as well as this last modest expense for which we are asking in order to efficiently perform our labors through the instrumentality of this committee? It is the most singular idea I have ever heard that after the people by their votes have declared the necessity for the call of a Convention to submit a new Constitution, or amendments to the old one, for us to be met just at the close of our work by the extraordinary argument that it is a partizan labor and that the money of the people who are opposed to the Constitution should not be taken to further these views. A more utter misapprehension if the argument was intended in good faith—and I am bound to believe it was—it is hardly possible to conceive. As was stated by the gentleman from Centre (Mr. Curtin) the other night, we are here for the people, representing them in their primary form, and making that which we believe will be acceptable to them; and to be met by the argument that the expense of the necessary machinery to lay the results of our work before them is of a partizan character and therefore should not be paid for out of the moneys of the public Commonwealth, really passes my conception to understand. It is just as legitimate an expense, provided that money is properly expended, as the pay of your judiciary, or any other article of expenditure to be found in an appropriation bill. If gentlemen do not like the committee and I think it a good one and I speak of it impartially for I had nothing to do in its Constitution but to vote for its appointment, why did not gentlemen say so when the vote was taken upon the appointment?

Do not let us go back of the action of the Convention after we have raised the committee and put work in their hand which requires money to be expended that they may have the means of performing their duty satisfactorily to themselves and to the body which elected them.

The PRESIDING OFFICER (Mr. Turrell in the chair.) The question is on the motion of the gentleman from Allegheny to lay the resolution on the table.

Mr. BOYD. On that question I call for the yeas and nays.

Mr. DE FRANCE. I second the call.

Mr. HAY. I wish simply before the

yeas and nays are taken to give a reason for my vote on this question. I shall vote in favor of laying the resolution on the table, not that I do not think the Executive Committee ought to have all the money that can be raised to carry out the objects of its appointment, not because I do not think it would be very proper for us to resort to this means, but because I believe the people of this State are interested in the success of our instrument, and will furnish all the money necessary for the successful carrying of it into operation. I believe that the five thousand dollars we propose to appropriate to this committee will be readily raised by the friends of the new Constitution.

Mr. COCHRAN. I certainly did not expect, when we raised the Executive Committee, that any funds out of the public treasury would be appropriated for its use. I thought that this committee, if it needed funds, would raise them from the friends of the Constitution, whose adoption their appointment was intended to procure. I really cannot consent to this appropriation, nor can I see the propriety of taking any of the public funds for the purpose designated by this resolution.

Mr. WORRELL. Those are my views.

The PRESIDING OFFICER. The yeas and nays are required and the Clerk will call the names of members.

The yeas and nays were taken and were as follow, viz:

Y E A S .

Messrs. Ainey, Alricks, Baer, Bally, (Perry,) Bailey, (Huntingdon,) Bardley, Bowman, Boyd, Cochran, Cronmiller, Darlington, De France, Edwards, Ewing, Fell, Funck, Gilpin, Guthrie, Hanna, Harvey, Hay, Hemphill, Kaine, Knight, Landis, Lawrence, Littleton, M'Clean, M'Michael, Minor, Patterson, D. W., Purman, Purviance, John N., Reed, Andrew, Ross, Russell, Smith, Henry W., Stanton, Struthers, Van Reed, White, Harry and Worrell—42.

N A Y S .

Messrs. Andrews, Armstrong, Baker, Barr, Biddle, Bigler, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Campbell, Carey, Cassidy, Church, Clark, Cuyler, Elliott, Gibson, Hazzard, Howard, Lilly, Long, M'Culloch, Niles, Palmer, G. W., Palmer, H. W., Patton, Pugh, Rooke, Simpson, Smith, H. G., Smith, Wm. H., Temple, Turrell, Wetherill, J. M., Wherry, Woodward and Wright—40.

So the motion to lay the resolution on the table was agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Bannan, Bardsley, Bartholomew, Beebe, Black, Carter, Collins, Corbett, Corson, Craig, Curry, Curtin, Dallas, Davis, Dodd, Dunning, Ellis, Finney, Fulton, Green, Hall, Heverin, Horton, Hunsicker, Lambertson, Lear, MacConnell, MacVeagh, M'Camant, M'Murray, Mann, Mantor, Metzger, Mitchell, Mott, Newlin, Parsons, Patterson, T. H. B., Porter, Purviance, Samuel A., Read, John R., Reynolds, Runk, Sharpey, Stewart, Wetherill, John Price, White, David N., White, J. W. F. and Walker, *President*—51.

CHANGE OF RAILROAD ARTICLE.

Mr. EWING. I now suggest that this Convention take a recess until half-past four o'clock, at which time I understand the Committee on Revision and Adjustment will be ready to report on the Schedule and the Ordinance. I move that we take a recess until half-past four o'clock.

Mr. KNIGHT. I ask the gentleman to withdraw his motion to allow me to make a report.

Mr. EWING. I will withdraw it for that purpose.

Mr. KNIGHT. I make the following report:

"The Committee on Revision and Adjustment report the following corrections in article seventeen on Railroads and Canals:

"That section five, of said article, be amended in the third line by inserting the word "or" between the words "lease" and "purchase," and the words "the works and franchises of" after the word "purchase" in the same line."

The PRESIDING OFFICER. Will the Convention adopt the report?

The report was adopted.

THANKS TO THE PRESIDENT.

Mr. KAINÉ. Mr. President: I offer the following resolution:

Resolved, That the thanks of this Convention are tendered to the Hon. John H. Walker for the able and impartial manner with which he has discharged the duties of President.

The resolution was read a second time.

The PRESIDING OFFICER. (Mr. Turrell in the chair.) The resolution is before the Convention.

Mr. CASSIDY. In order to keep the record right I call for the yeas and nays, as

is usual with such case. ["No!" "No!"]
It is the ordinary course and necessary.

Mr. TEMPLE. I second the call.

The PRESIDING OFFICER. The yeas and nays are called for, and the Clerk will call the roll.

The yeas and nays were taken and resulted as follow, viz:

Y E A S .

Messrs. Addicks, Alricks, Andrews, Armstrong, Baer, Bally, (Perry,) Baker, Bannan, Barclay, Barr, Biddle, Bigler, Black, Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Carey, Cassidy, Church, Clark, Crommiller, Curtin, Cuyler, Dallas, Darlington, De France, Edwards, Elliott, Ewing, Fell, Finney, Gibson, Guthrie, Hanna, Harvey, Hay, Hazzard, Hemphill, Horton, Kaine, Knight, Lamberton, Lawrence, Lilly, Littleton, Long, M'Clean, M'Michael, M'Murray, Mantor, Minor, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patten, Pughe, Purman, Purviance, John N., Read, John R., Reed, Andrew, Reynolds, Rooke, Ross, Runk, Russell, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Wetherill, J. M., Wetherill, John Price, Wherry, White, Harry, Woodward and Worrell—85.

N A Y S .

None.

So the resolution was unanimously agreed to.

ABSENT—Messrs. Achenbach, Ainey, Bailey, (Huntingdon,) Bardsley, Bartholomew, Beebe, Campbell, Carter, Cochran, Collins, Corbett, Corson, Craig, Curry, Davis, Dodd, Dunning, Ellis, Fulton, Funck, Gilpin, Green, Hall, Heverin, Howard, Hunsicker, Landis, Lear, MacConnell, MacVeagh, M'Camant, M'Culloch, Mann, Metzger, Mitchell, Mott, Parsons, Patterson, D. W., Patterson, T. H. B., Porter, Purviance, Samuel A., Sharpe, Stewart, Van Reed, White, David N., White, J. W. F., Wright and Walker, *President*—48.

RECESS.

Mr. EWING. I move now that the Convention take a recess until half-past four o'clock. I mention that hour from a suggestion of a member of the Committee on Revision and Adjustment that it will take until that time for them to prepare the Schedule and Ordinance for final revision by the Convention.

Mr. HARRY WHITE. I beg the delegate to withdraw that motion.

Mr. EWING. No, I have withdrawn it long enough. I am hungry. [Laughter.]

Mr. BRODHEAD. I move to amend by making it four o'clock.

Mr. EWING. I accept the modification of four o'clock as some business may be ready then to do.

The PRESIDING OFFICER. It is moved that the Convention take a recess until four o'clock.

The motion was agreed to, and (at two o'clock and ten minutes, P. M.) the Convention took a recess until four o'clock, P. M.

AFTERNOON SESSION.

The Convention re-assembled at four o'clock P. M.

PUBLICATION OF CONSTITUTION.

Mr. J. N. PURVIANCE. I offer a resolution—

Mr. DALLAS. I understand the resolution is to be read for information only, not being in order now.

The PRESIDENT. The resolution will be read.

The CLERK read as follows:

"Resolved, That the publication of the Constitution in pamphlet form for general circulation, as ordered by the Convention, shall be without note or comment; and that so much of any resolution as authorizes the publishing of the address of the Committee on Revision and Adjustment, or any other committee, in the same pamphlet, is hereby rescinded."

On the question of proceeding to the second reading and consideration of the resolution, a division was called for and the yeas were forty-one, the noes not counted. So the resolution was read the second time and considered.

Mr. W. H. PALMER. I should like to hear some reason for the resolution.

Mr. J. N. PURVIANCE. I ask for the yeas and nays.

Mr. H. W. PALMER. I should really like to hear some reason for this resolution. The Committee on Revision and Adjustment or whatever other committee was authorized to issue an address, is to issue an address to be published. The purpose of writing this address will be to have it published, and it is quite immaterial whether it be published in this pamphlet or in any other shape. It will have more authority in the pamphlet

than anywhere else; and if it is important to have it published at all, it is important to have it published in the pamphlet that circulates among the people. We either ought to have no address at all or have it published in every place where we can publish it. It will cost very little to publish it in the pamphlet, and it ought to be in the pamphlet so that it can go before the people, or else the committee ought to be discharged from writing any address at all.

Mr. J. N. PURVIANCE. I will simply say, in answer to the gentleman from Luzerne, that in my humble opinion the Constitution itself, of which we have ordered the publication in pamphlet form of twenty-one thousand copies, ought to go out alone. My desire is to circulate those copies just of the Constitution itself without any note or comment or recommendation from any committee whatever. Let it stand purely upon its own merits. Besides that, I have objection to this Constitution ordering an address to be made by the Committee on Revision and Adjustment or the Executive Committee or any other committee. We have no knowledge at present whether the address will be well written or not, whether it will be a proper exposition of the Constitution or not, and why should it be published with the Constitution until we have an opportunity first of seeing it. Let us publish the Constitution by order of the Convention, just as the Constitution, and then let the address of the Committee on Revision and Adjustment or any address that may be published by the Convention go forth as a separate document to stand as an explanation of it and be accepted or received as such by those who see proper to do so. I therefore trust that this resolution, which I regard as of importance, will be adopted.

Mr. BUCKALEW. I will say that I have no objection to any disposition that shall be made of this subject. The principal object in view in ordering that committee to perform a duty on this subject was to set forth in a condensed form what changes are made by the new Constitution in the old one. The resolution was that that committee should make an exhibit of the changes made by the new Constitution in the old, by way of explanation, possibly suggestions in certain cases, briefly of the reasons for making the change, and, as I understand it, a

popular address to the people to vote for the new Constitution. Now if a paper that kind be published in pamphlet form and sent out, as has already been ordered, the Convention must give some direction what shall be done with it, otherwise the committee will not be called upon to prepare any such paper. If the gentleman from Butler should provide that this paper after it is prepared shall be published in some other way, some other mode than that, very well. Otherwise the committee can properly understand by this resolution that the whole subject of making exposition of the changes proposed by the new Constitution will be altogether dispensed with, and of course they will feel themselves relieved from any responsibility in the matter.

Mr. LITTLETON. I ask for the reading of the resolution adopted on this subject heretofore.

The PRESIDENT. The resolution offered on Saturday will be read.

The CLERK. The resolution heretofore adopted reads:

Resolved, That the Committee on Revision and Adjustment be authorized to prepare and publish their exhibit of the changes proposed by the new Constitution and the address to the people thereon, after the adjournment of the Convention."

To which Mr. Cuyler offered this amendment this morning, both of which were adopted:

Resolved, That the address to the people of the State, prepared under the authority of the Convention, shall be submitted to the President, and shall be attested by his signature and that of the Clerk as the act of the Convention, and be published with the pamphlet edition of the Constitution."

Mr. BIGLER. I desire to express the hope that the resolution offered by the gentleman from Butler will not pass. It is a very difficult thing for people in the country to understand the effect of the new Constitution. There is not one family out of fifty possessed of the old Constitution; and if you send them the new as a whole without comment or explanation, it will be virtually impossible for them to understand the changes that you have made. Why, sir, the very virtue of all this work will be the comments which will accompany the instrument itself, by which the reader will see at a glance what changes have been made. I have no doubt that there will be such an analysis

of the new Constitution as compared with the old as will enable each reader to understand exactly what will be the effect of his vote when he votes for or against the proposed Constitution. I think that of the utmost importance, and I have said repeatedly here, not on the floor but in private conversation, that sending the Constitution without comment would not answer the purposes intended, and I hope the resolution for that reason will not prevail.

Mr. H. G. SMITH. Mr. President: This Convention has seen fit to change the order of publication of this document directed by the act of Assembly. It has by passing the resolution reported from the committee appointed by yourself on Saturday morning, determined that the text of the Constitution as we adopt it shall be published in sheet form in sufficient numbers to enable one sheet to go out with each newspaper in this Commonwealth. Now a question may occur here as to whether, with the passage of that order, the publication of twenty-one thousand copies in pamphlet form is necessary. In ordering the publication of it in the manner in which it has been ordered, this Convention has provided that every man who reads a newspaper in the Commonwealth shall be furnished with the Constitution itself, and that such address, discreet I have no doubt it will be, as may be approved by yourself, shall be put into the hands of every man in this Commonwealth who subscribes to a newspaper.

For my part, I do not see the necessity of publishing twenty-one thousand copies in pamphlet form if the Constitution is published in this way; but if the members of the Convention choose to direct that twenty-one thousand copies additional shall be published in pamphlet form, I see no reason why they should not send out such judicious comparison, for that, I take it, it will be, of the new Constitution with the old as the committee to which we have entrusted this important subject may see fit to render. The cost of printing the twenty-one thousand copies in pamphlet form will be something; the cost of adding the address of the committee will be a matter scarcely worth considering at all. If you expect the men to whom you commit this matter to send fourth a proper address, guarded as you have made it by the attestation of the President of the Convention, then

send it forth in every issue of this Constitution which you send to the people. Let them see what a committee, thus appointed by you, say in regard to this matter in every issue of the Constitution that you send to them. I do not say how I would vote if the question were squarely up here now in regard to the publication of those twenty-one thousand copies; but if you choose to publish them in pamphlet form, then send out the comments of your own committee with them.

Mr. WHERRY. I believe it not only necessary that these twenty-one thousand copies be printed but that the comments of this committee be printed along with them. There is a reason for the printing of these twenty-one thousand copies of the new Constitution that has never yet been stated upon the floor. It is this: If this Constitution be adopted by the people of the State there will be very great and radical changes made in the statute law of the State, and it is necessary for every member of the coming Legislature as well as for every intelligent citizen of this community to know what effect this Constitution will have upon the statute law before the next Legislature convenes.

The PRESIDENT. The question is on the passage of the resolution.

The resolution was rejected.

ORDER OF BUSINESS.

Mr. BRODHEAD. I offer the following resolution—

Mr. EWING. I rise to a question of order. My point of order is that resolutions are not now in order; that other business is in order, and I hope we shall get through with our regular and necessary business, and then for the balance of our time we can consider such other matters as may be brought before us.

Mr. DALLAS. Let the resolution be read for information.

The PRESIDENT. No one has called for the orders of the day.

Mr. EWING. I call for the orders of the day.

Mr. HARRY WHITE. I move that the Convention proceed to the consideration of the report of the special Committee on Printing.

The PRESIDENT. The orders of the day are called for, and resolutions are not in order.

SCHEDULE AND ORDINANCE.

Mr. KNIGHT. I beg leave to submit a report from the Committee on Revision and Adjustment.

The PRESIDENT. The report will be read.

The CLERK read as follows :

"The Committee on Revision and Adjustment report back the ordinance of submission without amendment.

The Committee on Revision and Adjustment report the Schedule amended as follows :

In section two, line two, strike out the figures "1874" and insert "in the year one thousand eight hundred and seventy-four;" in the same line after the word "provided" insert the word "for."

Strike out the heading "Senators and Representatives" preceding the third section.

In section three, strike out the figures "1874" and "1875" where they occur, and insert "one thousand eight hundred and seventy-four" and "one thousand eight hundred and seventy-five;" in lines two and three insert the words "the year" before "1874" and "1875."

In section four, strike out the figures "1876" and insert "one thousand eight hundred and seventy-six."

Strike out the heading "Executive and other State officers" preceding section five.

In section five, strike out the figures "1875" and "1878," and insert "one thousand eight hundred and seventy-five" and "one thousand eight hundred and seventy-eight;" in line three insert the words "the year" before "1878."

In section six, line one, insert the words "the year" before "1874," and strike out the figures "1874" and insert "one thousand eight hundred and seventy-four."

Strike out the heading "judiciary" preceding the tenth section.

In section ten, line one, strike out the words "who shall be;" in line two, strike out the word "shall" after the word "commissions."

In section eleven, line two, strike out the figures "1875" and insert "one thousand eight hundred and seventy-five;" in line three, strike out the word "except" and make the next clause commence as a sentence. At the end of the section insert these words: "And all causes and proceedings pending therein in the county of Schuylkill, shall be tried and disposed of in the courts of oyer and terminer and quarter sessions of the peace of said county."

In section fifteen, line four, strike out

the word "are" and insert the words "shall be."

In section seventeen, line three, after the word "of" at the beginning of the line insert the words "the judges of."

Strike out the heading "courts of Philadelphia and Allegheny" preceding the eighteenth section.

In section eighteen, line eighteen, strike out the figures "1875" and insert "one thousand eight hundred and seventy-five."

In section twenty-one strike out the figures "1875" and insert "one thousand eight hundred and seventy-five."

Strike out the heading "Aldermen and Magistrates" preceding section twenty-two.

In section twenty-two, line four, strike out the figures "1875" and insert "one thousand eight hundred and seventy-five."

In section twenty-three, line three, strike out the figures "1875" and insert "one thousand eight hundred and seventy-five."

In section twenty-five, line two, strike out the figures "1875" and insert "one thousand eight hundred and seventy-five."

In section twenty-six, line two, strike out the figures "1875" and "1876" and insert "one thousand eight hundred and seventy-five" and "one thousand eight hundred and seventy-six."

Mr. HANNA. I move that the report be accepted.

The motion was agreed to.

PAYMENT OF BILLS DURING RECESS.

Mr. STANTON. I offer the following resolution.

Mr. EWING. Are resolutions in order? I understand that reports of committees are in order?

Mr. DALLAS. I hope it will be read for information only.

The CLERK read the resolution as follows :

"Resolved, That during the recess of the Convention the President and Chief Clerk be authorized to draw warrants on the State Treasurer for the payment of such bills for gas, printing, reporting, paper, and other items as may be reported to the President as correct by the Chairman of the Committee on Accounts and Expenditures."

The resolution was ordered to a second reading and was read the second time.

Mr. HAY. It seems to me proper as

well as necessary that I should object to the passage of this resolution. I object to it because no bill has yet been paid by this body until it has been approved by it. No warrant has yet been drawn for one dollar until this Convention itself has ordered the payment. And, sir, I desire no such responsibility as that devolved upon me; nor do I think it right that the responsibility should be thrown upon one member of this body. Even if it were put upon the Committee on Accounts, I should object to it; but I am singled out and I am required to certify to the correctness of these bills individually. I earnestly desire that there may not be a discussion of this matter, for I do not want my name to be bandied about in regard to it. I do not want members to vote for or against this resolution because it confers such authority upon me.

Mr. STANTON. There are several items mentioned in the resolution which it is really important and necessary should be acted upon during the recess.

SEVERAL DELEGATES. It can be done at Harrisburg.

Mr. STANTON. They should be acted upon before we meet there. We have paid our bills here up to the present time, and I do not see why the chairman of the committee, who has assumed the responsibility from the time of his appointment, should want to shirk the duty now.

Mr. HAY. I do not shirk any responsibility.

Mr. STANTON. I think the resolution is placed in such fair and square words as to meet the approval of every member of the Convention. I trust it will pass.

Mr. HAY. I appeal to the delegate from Philadelphia to withdraw this resolution. I hope there will be no vote upon it. I do not want a vote which may be misconstrued. I hope the delegate will withdraw it.

Mr. STANTON. I ask for a vote on the resolution.

The resolution was not agreed to, the ayes being twenty, less than a majority of a quorum.

DESKS OF OFFICERS.

Mr. NILES. I am requested by several delegates to offer a resolution.

Mr. DALLAS. Let it be read for information.

Mr. PRESIDENT. It will be read for information only.

The CLERK read as follows:

Resolved, That the desks and chairs of the sergeant-at-arms and assistant sergeant-at-arms, the door-keeper and assistant door-keeper, be and the same are hereby presented to them by the Convention."

MANY DELEGATES. [No. No.]

Mr. NILES. There were a great many noes just now, but I hope gentlemen will consider this thing.

Mr. EWING. I rise to a point of order. I object to the consideration of any resolution until the proper time comes. The report of the Committee on Publication is to be considered. Let us get through with the necessary business and then we can attend to this and other resolutions, if there be any such.

The PRESIDENT. There being objection, the resolution cannot be entertained.

Mr. EWING. I move to proceed to the consideration of the report of the Committee on Publication.

The motion was agreed to.

PUBLICATION OF CONSTITUTION.

The Convention accordingly proceeded to consider the following resolutions which were read the second time:

Resolved, That in lieu of advertising the new Constitution in two newspapers in each county, as provided in the act of Assembly, entitled 'An act to provide for calling a Convention to amend the Constitution,' approved April 11, 1872, the Secretary of the Commonwealth is hereby authorized and requested to cause to be printed by the State Printer, in sheet form a sufficient number of copies of the new Constitution, accompanied by the address to the people prepared by the Committee on Revision of this body as supplement (at least one to each of their subscribers) to as many newspapers published in this State as will consent to circulate the same in their several daily and weekly editions, one time, for the allowance of one and one-half cents per copy so circulated, to be settled by the Auditor General.

Resolved, That it shall be the duty of the Executive Committee of this body to confer immediately with the Secretary of the Commonwealth on the subject of the above resolution, and to see that its objects are expeditiously accomplished.

Resolved, That a copy of the above resolutions properly signed and attested shall be immediately furnished to the Secretary of the Commonwealth.

Mr. WHEBBY. There are still to my

mind some objections to the passage of these resolutions. When this subject was before the Convention before, I asked an answer to this question: whether or not the placing of these sheets in the press of this Commonwealth was not a violation of the postal law?

Mr. CHURCH. Certainly it is.

Mr. WHERRY. I believe it is a direct violation of the United States postal law, and I cannot vote for the resolutions until that question is satisfactorily answered in this Convention.

Mr. HARRY WHITE. What is the question?

Mr. WHERRY. My question is whether or not the resolution requiring the Constitution to be circulated through the newspapers in sheet form, is not at variance with the postal laws of the United States?

Mr. HARRY WHITE. I will answer that question in a moment.

Mr. WHERRY. Another question that I desire answered is, whether the act of Assembly is not binding upon the Secretary of the Commonwealth which makes it obligatory upon him to publish this Constitution in two newspapers in each county of the Commonwealth for two weeks? That is provided for in the act of Assembly, and then this committee comes in and offers these resolutions in these words that its publication shall be made, (in lieu of the advertising in two newspapers in each county for four weeks,) in sheet form to be distributed to each newspaper as has been read here this afternoon. I am very free to confess that this act of Assembly does not bind any member of this Convention, but I do hold that it binds the Secretary of the Commonwealth, and I hope that if the resolutions are to be adopted, we shall amend them at least by striking out the words "in lieu of" and inserting the words "in addition to."

Mr. HARRY WHITE. This is not my resolution. The Convention will understand that it is the report of a committee of five, four of whom were practical printers. I confess that in the careful consideration of this subject I was materially assisted by the able and distinguished delegate-at-large, the gentleman from Pittsburg, (Mr. Barr,) and also the gentleman from Lancaster, (Mr. H. G. Smith,) who are publishers of newspapers, as also by the gentleman from Allegheny, (Mr. D. N. White,) who has published a news-

paper, and the delegate from York, (Mr. Cochran,) who has had experience in the same business. This committee are of opinion that it is eminently practicable to circulate the new Constitution in this way. Five hundred thousand copies of it will accommodate the necessities of the case, and five hundred thousand copies can easily be had, at no greater expense than five thousand dollars as the cost of printing. The circulation, you will observe, of five hundred thousand copies, at one and a-half cents per copy, is seven thousand five hundred dollars, and that is twelve thousand five hundred dollars in round numbers. That is the total expense which this circulation of our work will cost.

In regard to the inquiry of the delegate from Cumberland and other delegates on this subject, I telegraphed to the Postmaster General recently in relation thereto. I have received a reply from the First Assistant Postmaster General in the following language.

"Not unless printed with each issue of the paper as a supplement crowded out for want of space."

Upon very careful inquiry, it is thought that possibly the post office department may reconsider their opinion in this respect, when they understand that the action is proposed by the Constitutional Convention of this Commonwealth. But no difference whether they do it or not, this difficulty which is suggested to me may be met by publishing, at a little additional expense in each paper, the name of each paper at the head of the supplement.

However, to remove all doubt and to meet the question fully, I propose to offer an amendment to this resolution and allow the newspapers one cent in addition for postage, if necessary. That will be an expense of five thousand dollars more, and that is the cheapest manner in which it is possible to circulate this Constitution.

Mr. BROOMALL. What will be the expense of publishing the Constitution in two newspapers as directed by law?

Mr. HARRY WHITE. I do not know that it can possibly fall under \$300,000.

I now offer the following amendment to come in after the word "circulated" in the first resolution, "and not more than one cent per copy for postage where necessary." Thus it will be observed that the \$12,500 will cover the printing

and the circulation, and \$5,000 additional will certainly cover the postage. I am also reminded of the fact that only about one-fourth of this whole edition of 500,000 sheets will be required to be circulated by mail, and this will of course take largely from the expense of the postage, so that in round numbers, I think \$15,000 will pay all the expenses of the printing and the circulating and the postage, and the work will be satisfactorily done.

In regard to the printing in two newspapers in every county in the Commonwealth, those who are familiar with the subject and in whose judgment I have confidence, report that the expense will not be less than \$300,000. On this question, I think we ought not to hesitate, because there will not only be an enormous expense incurred, but there will be the necessity of discriminating between the newspapers of the Commonwealth and the necessity of selecting two in each county, where perhaps there may be many more, and this will excite a prejudice against the instrument. In the manner I have proposed, no distinction will be drawn, but each newspaper will be placed upon an equality.

Mr. H. G. SMITH. I have just a word to say in regard to this matter. The publication of the Constitution in the newspapers of the Commonwealth according to the provisions of the act of Assembly, as stated by the gentleman from Indiana, will be very expensive. In regard to the report of the committee, I have this to say, that two members of the committee at least have surrendered a considerable source of profit in making this report. So far as I am concerned the newspaper which I publish would certainly be entitled to print the Constitution, and would receive it from the Secretary of the Commonwealth as it has always received such advertising matter hitherto; and my charge for advertising, at my regular advertising rates, in the weekly paper alone, exclusive of the daily edition, would not be less than five hundred dollars; but I recommend the Convention to adopt this plan. I do this because I believe it will secure more general circulation, and because I believe that this Convention having the power to do this in what I believe to be a fair and acceptable manner, ought to set the example of economy while they are inaugurating reforms.

Mr. HANNA. I understand this resolution to suggest to the Secretary of the

Commonwealth a different mode of procedure from that pointed out in the act of Assembly. That act of Assembly which called this Convention in session provides that the Secretary of the Commonwealth shall publish this Constitution, when approved by the Convention, in two newspapers in every county in the Commonwealth for four weeks. I knew that a great many members of this Convention have undertaken to override not only this act of Assembly but every other act of Assembly upon the subject of the Constitutional Convention. But, sir, for one, I undertake to say that you will not find the Secretary of the Commonwealth in that position. When this Executive Committee goes to the Secretary of the Commonwealth, he will say to them: "Gentlemen I am a law-abiding officer; and this act of Assembly says this Constitution shall not be published in more than two newspapers in each county, but it says it shall be published in two newspapers, and I refuse to do as you suggest." Then, I ask, what power can this committee have? If I were Secretary of the Commonwealth that would be my answer to this Executive Committee. I would say "you have nothing to do with it. It is none of your business. My duty as Secretary of the Commonwealth is prescribed to me by the act of Assembly and I will do nothing more nor nothing less.

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

Mr. HANNA. Certainly.

Mr. HARRY WHITE. I will not quarrel with him about the law, but I desire to ask him if he does not know that the language of this resolution is—

"The Secretary of the Commonwealth is hereby authorized *and requested*."

If the Secretary insists upon executing the act of Assembly the Executive Committee will not print these sheets.

Mr. HANNA. If this resolution amounts to nothing more than that, it is good for nothing. If we cannot go before the Secretary of the Commonwealth and do anything more than request him, it is useless to pass such a resolution. We are making ourselves ridiculous by this action. I maintain the position simply to be this: That when we approve a Constitution and it is certified by the President and the Chief Clerk of this Convention, then the Secretary of the Commonwealth is to send it to two papers in every county of the Commonwealth to be published for four

weeks. No matter what the expense will be, we have nothing to do with that. In regard to the publication of this Constitution, I think the Secretary of the Commonwealth knows just as much about it as we do, and he is the officer appointed by law to attend to that duty. I do submit that this resolution will not amount to anything and should not be passed by the Convention.

The PRESIDENT. The question is upon the amendment of the gentleman from Indiana.

The amendment was agreed to.

The PRESIDENT. The question recurs upon the resolution as amended.

Mr. CURTIN. I suggest to the gentleman from Indiana that he make his amount three cents all the way through.

Mr. HARRY WHITE. I think it is right as it is.

Mr. CURTIN. It is too little, it would be better to make it three cents.

Mr. HARRY WHITE. I will say that I have just been informed that a million and a half copies of the Constitution in sheet form can be published at the rate of half a cent a copy. This will cost \$7,500.

Mr. CURTIN. It would be better to make it an even three cents all around.

Mr. HARRY WHITE. No.

The PRESIDENT. The question is on the resolution as amended.

Mr. HANNA. I call for the yeas and nays.

Mr. KAINE. I second the call.

The yeas and nays were taken with the following result:

Y E A S .

Messrs. Addicks, Ainey, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Barr, Beebe, Biddle, Bigler, Black, Bowman, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Campbell, Cassidy, Church, Clark, Cochran, Cronmiller, Curtin, Cuyler, Dallas, Darlington, Davis, De France, Dunning, Edwards, Elliott, Ewing, Finney, Funck, Gibson, Gilpin, Guthrie, Harvey, Hay, Horton, Howard, Hunsicker, Knight, Lambertson, Landis, Lawrence, Lilly, Mantor, Mott, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Pattou, Porter, Purman, Purviance, John N., Read, John R., Reed, Andrew, Rooke, Ross, Runk, Russell, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price,

White, David N., White, Harry, Worrell, Wright and Walker, *President*—84.

N A Y S .

Messrs. Boyd, Hanna, Hemphill, Kaine, M'Clean, M'Culloch, Temple and Wherry—8.

So the resolutions as amended were agreed to.

ABSENT.—Messrs. Achenbach, Barclay, Bardaley, Bartholomew, Carey, Carter, Collins, Corbett, Corson, Craig, Curry, Dodd, Ellis, Fell, Fulton, Green, Hall, Hazzard, Heverin, Lear, Littleton, Long, MacConnell, MacVeagh, M'Camant, M'Michael, M'Murray, Mann, Metzger, Minor, Mitchell, Parsons, Patterson, T. H. B., Pughe, Purviance, Samuel A., Reynolds, Sharpe, Smith, Henry W., Stewart, White, J. W. F. and Woodward—41.

DESKS OF OFFICERS.

Mr. NILES. Is a resolution in order at this time? ["Yes."] I hope gentlemen will allow it to pass.

The resolution was read as follows:

Resolved, That the desks and chairs of the sergeant-at-arms and assistant sergeant-at-arms, the doorkeeper and assistant doorkeeper, the postmaster and assistant postmaster be, and the same are hereby presented to them by the Convention.

The resolution was read twice and considered.

Mr. NILES. Just one word. This property does not belong to the city of Philadelphia; it belongs to the State; and really does not amount to anything and is due to these officers for the services they have performed here.

The resolution was agreed to.

THANKS TO NEWSPAPER REPORTERS.

Mr. H. G. SMITH. I offer the following resolution:

Resolved, That the thanks of this Convention be tendered to the newspaper reporters who have attended upon its sessions from day to day.

The resolution was read twice and agreed to.

THANKS TO REFORM CLUB, &C.

Mr. BRODHEAD offered the following resolution which was read twice and agreed to.

Resolved, That the thanks of this Convention be hereby tendered to the Reform Club, the Union League, the Pennsylvania Historical Society and the Merchantile Library, whose hospitalities prompt-

ly tendered have conduced so much to the pleasantness of our sessions in what we have found to be truly the "City of Brotherly Love."

PAPER FOR PRINTING CONSTITUTION.

Mr. STANTON. I offer the following resolution, which I trust the Convention will pass without a dissenting voice:

Resolved, That the Committee on Printing are instructed to see that a paper cheaper than is used upon the Debates is furnished for the supplements of the various newspapers and at a price not to exceed twelve and a-half cents per pound.

The resolution was read a second time and considered.

Mr. H. G. SMITH. I suggest one objection to the resolution and that is, according to arrangement this matter was left to the State Printer and I hardly think we can direct him.

Mr. STANTON. This will be a matter of economy.

The resolution was rejected.

ADDITIONAL PAY.

Mr. D. W. PATTERSON. I offer the following resolution:

Resolved, That Joseph Ebersole and James Craig, janitors, be each allowed pay for thirty-seven additional days, they having severally served that number of days on Saturdays and Sundays, and on Friday the Fourth of July and the Monday following, when the Convention was not in session, the existing resolution regulating the Chief Clerk in the payment of the janitors preventing him from paying the said janitors for any time except for days that the Convention was in actual session."

I ask leave to say a word now, and then I will not speak on the merits. This resolution is not asking for any gratuity. The resolutions on our Journal prevent the Chief Clerk from paying the janitors for any days other than days when the Convention was in session. Well, on Saturday and Sabbath the House Committee will tell you that one or other of these janitors had to be here. Our watchman was only a night watchman. Hence they served on Saturdays and Sabbaths and other days on which we were not in session, as janitors, attending to the House for the accommodation of the members thirty-seven days, consisting of Saturdays and Sabbaths, which they took alternately, the fourth of July and the following Monday. Now I only ask that

those thirty-seven days' pay be paid to each of these men, for services which they actually rendered.

Mr. DARLINGTON. How much a day?

Mr. D. W. PATTERSON. Three dollars a day. I move that we proceed to the second reading of the resolution.

The PRESIDENT. The question is on proceeding to the second reading and consideration of the resolution.

The motion was not agreed to.

Mr. ALRICKS. I am very sorry to part with fellow members of the Convention, but I am constrained, as we are getting into confusion, to move that we adjourn to meet in Harrisburg.

DATE OF ADOPTION OF CONSTITUTION.

Mr. PURMAN. I hope the gentleman will withdraw that motion for a moment, as I want to make a suggestion, that we add to the Constitution a formal clause: "Adopted at Philadelphia this third day of November, in the year of our Lord, 1873." It does not now appear when we adopt it.

Mr. ARMSTRONG. It is proposed merely to insert the words "at Philadelphia, third day of November, 1873."

["Unanimous consent."]

Mr. PURMAN. Let there be unanimous consent to that suggestion.

The PRESIDENT. The question is on the suggestion.

Mr. DALLAS. I move that we adjourn.

Mr. LILLY. I want to know the effect of a motion to adjourn. Is it to adjourn to next December 27th?

Mr. DALLAS. Unless sooner convened.

Mr. D. W. PATTERSON. I desire to make a suggestion.

Mr. BLACK. I wish to offer a resolution.

The PRESIDENT. Gentlemen will observe order until the last motion is entered on the record.

Mr. ALRICKS. I believe I have the floor. I move that the Convention adjourn to meet on the 27th of next month, at twelve o'clock noon.

The PRESIDENT. Let us get through with what we are at first.

The CLERK. Mr. Purman moves that at the end of the Schedule, which comes after the Constitution, these words be added: "Adopted at Philadelphia on the third day of November, in the year of our Lord one thousand eight hundred and seventy-three."

The PRESIDENT. The question is on that motion.

The motion was agreed to.

DUTY OF MEMBERS.

Mr. BLACK. I offer the following resolution:

"Resolved, That this Convention having fixed upon an early day for a vote by the people upon the proposed New Constitution, it is the imperative duty of every delegate friendly to its adoption to use all honorable means in his power to secure such adoption by diffusing information amongst the people as to the nature and value of the several amendments."

The resolution was read twice and adopted.

COPY FOR SECRETARY OF COMMONWEALTH.

Mr. DARLINGTON. I move that the Convention do now adjourn to meet again at Harrisburg on the 27th day of December at twelve o'clock M.

Mr. DALLAS. I move to amend by adding "unless sooner convened."

Mr. D. W. PATTERSON. Allow me one moment. I merely want to state that this Convention has not by resolution directed either the President or the Chief Clerk to deposit a copy of this Constitution in the office of the Secretary of the Commonwealth.

SEVERAL DELEGATES. That has been done.

Mr. D. W. PATTERSON. No, nothing of that kind has been passed. I proposed it this morning, but it was not voted. We ought to do that in conformity with the act of Assembly.

The PRESIDENT. Is the motion to adjourn withdrawn for the present?

Mr. DARLINGTON. Yes, sir.

Mr. D. W. PATTERSON. Then I offer the following resolution. It is absolutely

necessary. The Convention of 1838 did as the act of Assembly requires:

"Resolved, That the Chief Clerk of the Convention be hereby directed to deposit in the office of the Secretary of the Commonwealth, at Harrisburg, the new Constitution, when signed by the President and the Chief Clerk, as the act of Assembly requires, and when signed also by the delegates of the Convention present.

The resolution was ordered to a second reading and read the second time.

Mr. KNIGHT. I move to amend the resolution by adding: "And also that a copy of the same be deposited with the Historical Society of Pennsylvania.

Mr. D. W. PATTERSON. I accept that. The PRESIDENT. The question is on the resolution as modified.

The resolution was adopted.

ADJOURNMENT.

Mr. D. W. PATTERSON. Now I am ready to adjourn.

The PRESIDENT. It is moved that when this Convention adjourn, it adjourns to meet at Harrisburg—

Mr. LILLY. I suggest that the motion be amended by adding "at the Hall of the House of Representative, in Harrisburg." ["Aye." "Aye."]

The PRESIDENT. It is moved that when the Convention adjourn, it adjourn to meet again at Harrisburg, on the 27th of December at twelve o'clock, M., in the Hall of the House of Representatives, unless sooner convened by the President.

The motion was agreed to.

Mr. STANTON. I move that the Convention do now adjourn.

The motion was agreed to, and the Convention adjourned (at six o'clock and five minutes, P. M.) to meet at Harrisburg on the 27th of December at twelve o'clock noon, unless sooner convened by the President under the authority conferred on him by resolution.

ONE HUNDRED AND EIGHTIETH DAY.

SATURDAY, *December 27, 1873.*

The Convention met at twelve o'clock, M., in the Representatives' Hall at Harrisburg, Hon. John H. Walker, President, in the chair.

Prayer was offered by Rev. Jas. W. Curry, D. D., as follows:

Oh, Almighty God, we come before Thee this day, with praise and thanksgiving, because goodness and mercy has followed us all the days of our pilgrimage.

We praise Thee, Almighty Father, for the great things which Thou hast done for us in the past few weeks. We thank Thee that Thou didst put it into the hearts of the people of this Commonwealth to ratify the Constitution these, Thy servants, prepared for them. We rejoice this day, that a great majority of the people of this Commonwealth have declared in favor of reform and progress. Would it please Thee to bless the instrument which they have endorsed by their votes, to the good of the present generation and the prosperity of the Commonwealth in all its departments.

We earnestly invoke Thy blessing, oh God, upon every section of our Commonwealth, and especially we pray Thy blessing to rest upon the Chief Executive of this State. Bless his Cabinet. Bless, we beseech Thee, the in-coming Legislature and be with them in their deliberations. Control all their acts, and may everything they do be for Thy glory and the good of the State in which we live.

We ask Thy blessing upon the members of this Convention. Forgive us wherein we have erred and wherein we have sinned, and for the sake of Jesus, Thy Son, prepare us for every duty of life that may be ours to perform. We do not forget, Heavenly Father, that during our separation that one of our number has passed from time into eternity. He is not here to-day. His spirit has returned to Thee who gave it, and his body lies mouldering in its mother dust. Bless, we beseech Thee, the widow and the orphans he has left behind him, and grant that they may enjoy Thy protection and guidance until they shall have finished their

course and Thou shalt say: "It is enough come up higher."

We are gathered together here to-day perhaps for the last time. We know not but that this may be the last meeting we shall ever be permitted to enjoy. Perhaps we have greeted each other for the last time, for life is uncertain and death only is sure. Help us all to so live that when to us the message of summons comes we may be gathered in Thine own sheltering arms.

Direct us in Thy gracious wisdom. Work in us to will and to do Thy good pleasure. Make us Thine, entirely Thine. All that we have and all that we are we commit to Thy tender care and keeping; and grant that when Thou seest fit to call us to judgment we may all be prepared to enter into that rest which remaineth for the people of God.

Especially we invoke Thy blessing upon the President of this Convention. Assist all of us who have passed the meridian of life. Be with them in their declining years and may they feel that Thy rod and Thy staff shall comfort them through the valley of the shadow of death.

And now in our closing hours we commit ourselves to Thee. Protect, guide, and strengthen us, and finally save us all, for the Redeemer's sake. Amen.

MEMBERS PRESENT.

Mr. LILLY. I ask for a call of the roll.

The roll was called and the following delegates answered to their names:

Messrs. Achenbach, Addicks, Ainey, Alricks, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Barclay, Barr, Bartholomew, Beebe, Biddle, Bigler, Bowman, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Campbell, Church, Cochran, Corson, Cronmiller, Curry, Curtin, Cuyler, Dallas, Darlington, Dodd, Dunning, Edwards, Ellis, Fulton, Funck, Gibson, Gilpin, Green, Guthrie, Hall, Hanna, Harvey, Hay, Hazzard, Hemphill, Heverin, Horton, Howard, Hunsicker, Kaine, Knight, Lamberton, Landis, Lawrence, Lilly,

Littleton, Long, MacConnell, M'Camant, M'Clean, M'Culloch, M'Michael, M'Murray, Mantor, Mitchell, Newlin, Palmer, G. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Ross, Runk, Russell, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Temple, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price, Wherry, White, Harry, Woodward, Worrell, Wright and Walker; *President*—101.

Mr. DALLAS. I desire to say in explanation of the absence of my colleague, John R. Read, of Philadelphia, that he expected to be here, but is detained by sickness in his family.

Mr. LAMBERTON. I have received a telegram from Mr. Cassidy, of Philadelphia, saying that the health of his family is such as to render it improper for him to leave the city at this time, and asking me to state this in explanation of his absence.

Mr. KATNE. My colleague, Col. Collins, of Fayette county, is very ill and has been for some three or four weeks; hence his absence this morning.

Mr. LAMBERTON. My colleague, Mr. MacVeagh, is ill, confined to his house, and hence his absence.

Mr. DUNNING. I desire to say in explanation of the absence of my colleague, Mr. Pughe, that he expected to be here, but I received a letter this morning stating that he is confined to his room and unable to be out.

Mr. G. W. PALMER. I desire to say that my colleague, Mr. H. W. Palmer, is detained at this time, to my certain knowledge, on account of sickness in his family.

Mr. PARSONS. I wish to state that illness in his family detains my colleague, Mr. Metzger.

Mr. JNO. PRICE WETHERILL. I have just been informed that my colleague, J. Alexander Simpson, is detained in Philadelphia on account of sickness.

Mr. MORTON M'MICHAEL. Mr. Henry C. Carey expected to be here to-day, but is detained by sickness.

Mr. LILLY. I desire to make an explanation of the absence of Mr. Fell. I believe he is indisposed, or he would be here.

Mr. HARRY WHITE. The name of one of my colleagues, (Mr. Clark,) has been

called and has not been responded to. I desire to state that his absence is accounted for by domestic reasons, some affliction in his family, and I hope it will be so entered on the Journal.

The PRESIDENT. These explanations will be entered on the Journal.

PROPOSED PROTEST.

Mr. WOODWARD. I do not know that the motion which I am about to make is in order at this time or not. You will judge of that when you hear it. I move that a committee of five be appointed by the Chair to report to-day a form of protest on the part of this Convention against the late decision of the Supreme Court of Pennsylvania.

Mr. LAMBERTON. I second that motion.

Mr. KATNE. I think the first business in order is the reading of the Journal.

The PRESIDENT. The Chair will entertain the motion of the delegate from the city as perfectly proper, but the Journal must first be read.

Mr. WOODWARD. When I made my motion I was not aware that a committee had been raised by an informal meeting of some of the body for this same purpose. Mr. Wetherill tells me such is the fact. If that be the fact, I have no motive for pressing my motion, and I withdraw it.

THE JOURNAL.

The PRESIDENT. The Journal will now be read.

The CLERK proceeded to read the Journal of the proceedings of Monday, November 3d, but before concluding—

Mr. JNO. PRICE WETHERILL. I move that the further reading of the Journal be dispensed with.

The motion was agreed to.

POWERS OF THE CONVENTION.

Mr. ARMSTRONG submitted the following resolution, which was read twice and considered:

"Resolved, That a committee of thirteen be appointed to submit resolutions declaring the sense of this Convention as to the extent of its powers."

Mr. ARMSTRONG. Mr. President: I have offered this resolution at the request of a very large number of delegates who desire that there should be some expression upon that question. I forbear from making any further remarks, and say this much simply to explain the reason why I have offered it.

Mr. BARTHOLOMEW. I call for the yeas

and nays on the adoption of the resolution.

Mr. HALL. I second the call.

The yeas and nays were taken and resulted as follow :

Y E A S .

Messrs. Achenbach, Addicks, Alricks, Armstrong, Bally, (Perry,) Bailey, (Huntingdon,) Bannan, Barclay, Barr, Beebe, Biddle, Bigler, Brodhead, Brown, Buckalew, Calvin, Campbell, Church, Cochran, Cronmiller, Curry, Curtin, Dallas, Darlington, Dunning, Edwards, Ellis, Funck, Gibson, Green, Guthrie, Harvey, Hazzard, Heverin, Horton, Howard, Lamberton, Landis, Lilly, Littleton, Long, MacConnell, M'Camant, M'Culloch, M'Murray, Mantor, Newlin, Palmer, G. W., Patterson, T. H. B., Patton, Purviance, S. A., Ross, Runk, Russell, Sharpe, Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Van Reed, Wetherill, J. M., Wherry, Woodward, Wright and Walker, *President*—66.

N A Y S .

Messrs. Ainey, Baker, Bartholomew, Bowman, Broemall, Bullitt, Corson, Cuyler, Dodd, Fulton, Gilpin, Hall, Hanna, Hay, Humaleker, Kaine, Knight, Lawrence, M'Michael, Parsons, Patterson, D. W., Porter, Purviance, John N., Reed, Andrew, Rooke, Smith, H. G., Smith, H. W., Stewart, Wetherill, J. Price, White, Harry and Worrell—31.

So the resolution was adopted.

ABSENT. — Messrs. Andrews, Baer, Bardsley, Black, Boyd, Carey, Carter, Cassidy, Clark, Collins, Corbett, Davis, De France, Elliott, Ewing, Fell, Finney, Hemphill, Lear, MacVeagh, M'Clean, Mann, Metzger, Minor, Mitchell, Mott, Niles, Palmer, H. W., Pughe, Purman, Read, John R., Reynolds, Simpson, White, D. N. and White, J. W. F.—35.

The PRESIDENT appointed as committee Messrs. Armstrong, Buckalew, Biddle, Newlin, Howard, Curtin, Harry White, Broomall, Bigler, Sharpe, Littleton, Alricks and Cochran.

Mr. ARMSTRONG. I will ask leave for the committee to sit during the sessions of the Convention.

Leave was granted.

Mr. ARMSTRONG. I request the committee to meet immediately.

THE VOTE ON THE CONSTITUTION.

Mr. J. N. PURVIANCE. Believing that the only business before this Convention

is to ascertain the vote east on the 16th inst. for and against the Constitution or the instrument submitted by this body to the people to be voted upon at that time. I now move that the returns of the election be opened, the counties taken up in alphabetical order, and the result announced to the Convention.

The motion was agreed to.

Mr. DARLINGTON. I move that two members of the Convention be appointed as tellers to open and count the votes.

The motion was agreed to, and Messrs. Hay and Harvey were appointed tellers.

The tellers having taken their places at the desk, the returns from the respective counties were handed to them by the President, and having been opened and counted were found to be as follows :

Counties.	For.	Ag'tst.
Adams.....	687	2,451
Allegheny.....	18,315	1,895
Armstrong.....	2,466	1,017
Beaver.....	3,087	1,159
Bedford.....	2,211	774
Berks.....	9,114	1,866
Blair.....	1,782	2,248
Bradford.....	4,840	1,193
Bucks.....	4,445	2,935
Butler.....	8,877	496
Cambria.....	1,972	1,813
Cameron.....	419	50
Carbon.....	1,747	699
Centre.....	2,711	1,077
Chester.....	5,630	797
Clarion.....	2,287	945
Clearfield.....	1,425	1,222
Clinton.....	2,374	161
Columbia.....	2,308	1,784
Crawford.....	5,608	841
Cumberland.....	3,360	1,664
Dauphin.....	3,119	4,032
Delaware.....	1,866	797
Elk.....	592	229
Erie.....	6,624	742
Fayette.....	2,727	883
Forest.....	330	18
Franklin.....	2,904	1,275
Fulton.....	893	98
Greene.....	988	1,864
Huntingden.....	2,468	494
Indiana.....	1,589	3,153
Jefferson.....	1,396	912
Juniata.....	931	639
Lancaster.....	8,102	4,447
Lawrence.....	2,508	223
Lebanon.....	1,576	1,849
Lehigh.....	3,072	1,897
Luzerne.....	5,689	2,501
Lycoming.....	3,814	1,747

<i>Counties.</i>	<i>For.</i>	<i>Ag't.</i>	<i>And whereas, It is popularly understood that by the said fire Mr. Singerly has lost \$150,000 or more, and in consequence is utterly powerless to fulfill his contract without pecuniary aid :</i>
M'Kean.....	1,093	64	<i>And whereas, It is now very necessary to have the remainder of the Debates published to fill the sets already partly distributed, and from the demand upon the members of the Convention an additional number are desirable ; therefore,</i>
Mercer.....	3,890	2,104	<i>Be it resolved, That the Committee on Printing and Binding be, and they are hereby instructed to enter into a further contract with Mr. Benjamin Singerly, or some other party, upon the best and lowest terms, for the printing and binding of a sufficient number of copies of the Journal and seventh and eighth volumes of the Debates to fill the sets already distributed, and in the discretion of the said Committee on Printing and Binding, an additional number of copies of the Debates and Journal sufficient to distribute at least five copies to each member of the next incoming Senate and House of Representatives and ten additional copies to the members of this Convention.</i>
Mifflin.....	1,599	376	<i>The resolution was ordered to a second reading and read the second time.</i>
Monroe.....	1,640	381	
Montgomery.....	6,354	2,959	
Montour.....	1,065	154	
Northampton.....	3,245	2,581	
Northumberland.....	3,170	1,621	
Perry.....	1,491	1,916	
Philadelphia.....	59,130	24,598	
Pike.....	668	63	
Potter.....	549	617	
Schuylkill.....	6,156	2,029	
Snyder.....	408	2,286	
Somerset.....	892	2,972	
Sullivan.....	534	197	
Susquehanna.....	2,973	331	
Tioga.....	2,561	1,910	
Union.....	1,599	317	
Venango.....	4,716	189	
Warren.....	2,487	128	
Washington.....	4,626	636	
Wayne.....	1,560	257	
Westmoreland.....	4,081	2,456	
Wyoming.....	1,756	125	
York.....	4,514	3,091	
Total.....	253,560	109,198	

Majority for the new Constitution, 144, - 362.

The result having been arrived at by the tellers, the announcement was made by the President and received with great applause.

DEBATES OF OHIO CONVENTION.

The PRESIDENT laid before the Convention the following communication, which was read and laid on the table.

"COLUMBUS, OHIO, Nov. 20, 1873.

"To President of Pennsylvania Constitutional Convention :

"DEAR SIR :—Please find enclosed balance of Debates of Constitutional Convention of Ohio, which constitutes the first volume. I will forward you appendix and index as soon as printed.

"Yours respectfully,

"FREDERICK BLACKMORE."

PRINTING OF DEBATES AND JOURNAL.

Mr. LILLY. I offer the following preamble and resolution :

WHEREAS, By a destructive fire early in the month of November the office where our Debates were printed was destroyed :

And whereas, A large mass of unfinished matter was consumed, consisting of the seventh and eighth volumes of the Debates and the whole of the Journal :

And whereas, It is popularly understood that by the said fire Mr. Singerly has lost \$150,000 or more, and in consequence is utterly powerless to fulfill his contract without pecuniary aid :

And whereas, It is now very necessary to have the remainder of the Debates published to fill the sets already partly distributed, and from the demand upon the members of the Convention an additional number are desirable ; therefore,

Be it resolved, That the Committee on Printing and Binding be, and they are hereby instructed to enter into a further contract with Mr. Benjamin Singerly, or some other party, upon the best and lowest terms, for the printing and binding of a sufficient number of copies of the Journal and seventh and eighth volumes of the Debates to fill the sets already distributed, and in the discretion of the said Committee on Printing and Binding, an additional number of copies of the Debates and Journal sufficient to distribute at least five copies to each member of the next incoming Senate and House of Representatives and ten additional copies to the members of this Convention.

The resolution was ordered to a second reading and read the second time.

Mr. DARLINGTON. I do not perceive any distinct reference in that resolution to an order the Convention passed some time during the session in Philadelphia directing a copy to be given to each of the members of the Convention of 1837-8. I suppose the gentleman from Carbon means to include all copies heretofore ordered.

Mr. LILLY. My intention is to carry out every resolution that has been passed by this Convention to distribute copies of the Debates of the Convention. I presume that up to the sixth volume they have already been delivered. This is to fill up the unfilled sets.

Mr. DARLINGTON. I understand that, but I suggest to the gentleman to modify it so as to require all orders of the Convention heretofore made to be fulfilled.

Mr. LILLY. Of course, that is my understanding.

Mr. HAY. I should like to understand from the delegate who moved this resolution whether or not he is informed that the State Printer claims to be paid for the seventh and eighth volumes of the Debates and the Journal which, it is understood, were destroyed by fire in his printing establishment.

Mr. LILLY. All I can say in answer to that question is that I have had no conversation with the Printer on the subject of his past contract. I have understood from him, and from others, that his loss amounts to about one hundred and sixty thousand dollars, and that this calamity leaves him just as he was when he started the world. As to the back contract, I know nothing.

Mr. DARLINGTON. I think I can perhaps answer the inquiry of the gentleman from Allegheny. I happened to have a conversation with Mr. Singerly this morning, in which he stated that he considered that he had fulfilled his part of the contract in printing and furnishing the Debates by furnishing them in the house where they were burned. He believes this was a completion of his contract, as he is advised by his counsel.

Mr. HAY. I do not think that the resolution offered by the delegate from Carbon should pass this House. Early in the sessions of the Convention a contract was entered into with the Printer, by which it was stipulated that a certain number of volumes of the Debates and of the Journal should be furnished; so many copies unbound to the members of this body, to the newspapers of the State, to the heads of departments and the members of the Legislature, and four thousand five hundred bound volumes to the Convention. A considerable number of various volumes of the Debates were furnished in accordance with the contract, but it is generally understood that the edition of the seventh and eighth volumes, which were in Mr. Singerly's office at the time of the fire in November, were destroyed. A small number of these had been delivered in accordance with his contract to the members of the Convention, but the bulk of them were not furnished. The contract therefore on the part of Mr. Singerly has not yet been complied with. It is true that he has met with losses by which he has been prevented thus far from complying with his contract; but there was nothing to prevent the Printer from securing himself against loss by insuring his property, which it is well known from his own statement and the public prints, he failed to do. That is something which this Convention, however, has nothing to do. That was a measure of precaution which any prudent man ought to have taken. The contract is one entered into

on behalf of the State and it ought to be fulfilled.

So far as the preamble to this resolution is concerned, it recites statements of the correctness of which this Convention knows nothing, and I think that a great deal more is there stated than is correct in point of fact. Of course the statements are made in entire good faith, but I think the delegate is mistaken in presenting them. I propose to amend the resolution offered by the gentleman from Carbon by offering the following substitute:

"That the Printer for the Convention be and he is hereby required to deliver the Debates and proceedings and the Journal of the Convention, not yet delivered, in accordance with his contract with the Convention; and that if he fails or refuses to so deliver the same within a reasonable period of time, not exceeding six months from this date, the same be printed and supplied under the direction of the Superintendent of Public Printing, at the expense and on account of said Printer for the Convention.

"Resolved, That Wm. W. Harding, contractor to furnish paper for the Debates and Journal of this Convention, be authorized and required to furnish to Benjamin Singerly, the Printer for the Convention, a sufficient quantity of paper, such as has been heretofore supplied by him, for the printing of the Debates and Journal required under the foregoing resolution."

Mr. LILLY. In reply to the gentleman from Allegheny, as to the truth of the preamble, I have simply this to say to him and to the Convention, that I took no evidence under oath from anybody on this subject; I merely took the general undisputed story told on the streets of Harrisburg and other places as to the facts, and I believe that the statements therein made are true. I believed them to be true when I wrote the preamble and I have not changed my opinion since. I have no feeling for the sake of Mr. Singerly merely because he is Mr. Singerly. I have no feeling in favor of or against any man on this subject. But I do feel as a man and as a delegate to this Convention that when a citizen of Pennsylvania has been struck down by a calamity, his thousands taken from him in an hour, and even the bread taken from his mouth, it is not in the province of this Convention to put their foot on his throat, and I believe the Convention will do its full

duty to the Commonwealth in passing the resolution I have offered.

Mr. HAY. I do not think it is at all proper here to allude to the private circumstances of gentlemen who happen to be contractors with the Convention, and I imagine from the tone of the remarks of the delegate from Carbon that he knows very little about the circumstances of our Printer. I hope he is in better condition than the gentleman thinks he is; but that is neither here nor there. The contract was entered into with sureties to the Commonwealth and the contract ought to be fulfilled. Certainly the resolution offered by the delegate from Carbon is a resolution drawn in such a way that I am sure if adopted it will result in a very large loss to the State and a loss of a very improper character.

My understanding is that the Printer claims to have delivered the seventh and eighth volumes of Debates and the whole of the Journal according to his contract, while they were in his own possession and in his own printing office. The resolution of the gentleman from Carbon would allow this claim to be successfully made against the State, certainly it interposes no protection whatever against such a claim.

I can see no propriety in this House now entering into a new contract until it has been understood very clearly and under proper authority, whether or not the old one has ceased to exist. There are a great many questions of fact which properly would enter into such a settlement which cannot be ascertained here on the floor, which cannot be ascertained by private conversation, which cannot be ascertained on the street nor from the public prints. It will be essential that the final settlement of the accounts for the printing of the Convention should be examined with the utmost care, and by some officers who are duly authorized to properly investigate such matters.

I propose when this subject is disposed of, to offer the following resolution to cover this and other similar cases: I read it now for the information of the House:

"Resolved, That all unsettled accounts for the expenses of the Convention be referred to the Auditor General and Attorney General of the Commonwealth for settlement, and that when so settled the same be paid out of the appropriation made for the expenses of this body."

It is very evident the final expenses of

this Convention cannot be settled by this body. A partial settlement could possibly now be made, but it would amount to nothing. The final settlement for all the expenses up to the conclusion of our work and the final printing and final binding of the last volume must be paid by some authority existing after our adjournment, and I know of no other authority in the State upon whom can devolve this duty, than the officers I have mentioned. The Auditor General is the officer upon whom is devolved the settlement of all claims against the State, and in my resolution I have associated with him, the Attorney General, not without doubt as to the entire propriety of that union, but because I believe that these and other similar accounts are of such a complicated nature and involve so many nice legal questions that his council would be essential to the guidance of the Auditor General in the discharge of this duty. When the proper time comes, I propose to offer such a resolution in order that there may be a final settlement of all the accounts for the expenses of this body, made under proper authority and with proper care.

Mr. LILLY. This last resolution of the gentleman from Allegheny, I will vote for with a good deal of satisfaction, and I take it for granted that just such a resolution will be offered here and adopted; but that has no connection at all with the other resolution.

Mr. J. PRICE WETHERILL. Just a word. I am satisfied that if the delegate from Carbon would reflect for a moment he would find it impossible for the Committee on Printing and Binding to carry out and perform the duties with which he charges them in his resolution. He desires the Committee on Printing, that committee a part of this body, that committee to receive its money by appropriation from this body, and that committee to report hereafter to this body, to do certain business, and that business is to make a contract with Mr. Singerly or some other party to do a certain amount of work and to expend a certain sum of money. We intend probably to adjourn to-night, certainly we shall adjourn in one or two days.

Mr. HAY. To-day, by four o'clock, I hope.

Mr. J. PRICE WETHERILL. And if we do adjourn to-day, we charge a committee of our body to do a certain amount of work after we have ceased to exist. The

moment we adjourn, that very moment do our agents cease to exist, and that very moment would the Committee on Printing have no existence whatever. As I understand this case, we cannot meet it in any way except by the suggestion of the gentleman from Allegheny, unless the gentleman from Carbon will modify his proposition by submitting a statement of what work is required and what exact amount of money it will cost, and then possibly we might appropriate that amount of money to some State officer to pay for the work when done and direct Mr. Singlerly to do it. As it is, to charge one of our standing committees with an amount of work to be performed when our body itself, before forty-eight hours, will have ceased to exist, seems to me not only highly improper, but very much out of order.

Mr. KAINE. I have no conception what additional sum of money will be required to pay the expenses of the work embraced in the proposition of the gentleman from Carbon; but I have no doubt it will not be less than fifty thousand dollars, and it may be double that sum. I would like to know where this Convention is to get the money to pay any amount of this kind. Five hundred thousand dollars were set apart by the last Legislature to pay the expenses of this Convention, and that sum, I am informed, is very nearly exhausted, and it will be for the Legislature to provide for the payment of whatever may be wanted hereafter.

I am, therefore, opposed to the proposition of the gentleman from Carbon, and in favor of that of the gentleman from Allegheny, because that is in accordance with the course we have been pursuing.

Mr. CAMPBELL. I do not think one part of the resolution is perhaps fully understood. It contemplates, if the Convention so desire, the reprinting of the whole eight volumes, and the very mention of that fact will give an idea of what the cost may be. I am opposed to any such resolution that will empower any committee, in their discretion, to order such a reprinting as is included in this proposition.

The PRESIDENT. The question is on the amendment moved as a substitute by the gentleman from Allegheny (Mr. Hay.)

The amendment was agreed to.

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The PRESIDENT. The question recurs on the preamble.

The preamble was rejected.

The PRESIDENT. The question recurs on the resolution as amended, by the substitution of the proposition of the gentleman from Allegheny (Mr. Hay.)

Mr. COCHRAN. This question has sprung up under very peculiar circumstances, circumstances that appeal to the sympathies of the members of the Convention, and might induce them to go further in that direction than is proper and right. I think it would be just and wise for the Convention to let the whole thing rest and do nothing in the matter. In the first place, I think so, because we have no money to appropriate to pay for this when we pay the necessary expenses of this body, our funds will be nearly, if not entirely, exhausted, and if these Debates and the Journal are of sufficient public interest to call for their publication, we may leave the subject to the Legislature. They have the money to pay for it and they are the only persons who have. They have the control of the public funds. We have no control of funds. This property has been destroyed and we cannot replace it, simply because we have no money to pay for doing so, and it would be better for us to drop the subject and leave it to the Legislature.

Mr. LILLY. The position taken by the gentleman from York is very extraordinary. This Convention never had any money until the Legislature appropriated it, and yet we contracted for the expenditure of two-thirds of all that we have expended before there was a dollar appropriated by the Legislature for the expenses of the Convention. They appropriated five hundred thousand dollars for our expenses and if that is not enough they will appropriate more. There has already been expended about seven hundred thousand dollars for the expenses of this Convention. When we adjourned in Philadelphia we had expended about four hundred and eighty-four thousand dollars and after we adjourned we had a large amount of printing done and the Constitution as we framed it has been published in every newspaper in the Commonwealth and the bills for that advertising will probably amount to between two hundred thousand and three hundred thousand dollars. We may have no money

but the faith of the Commonwealth is pledged for every debt we contract.

We ought to have our sets of Debates full. The people desire it. They will be important to lawyers in the interpretation of Constitutional law in the courts because they show the intention of the Convention at the time the Constitution was framed. In my section the people want these Debates and if I had had a thousand sets, every one would have been taken from me by intelligent citizens of the Commonwealth who have applied to me for them.

Mr. HUNSICKER. I am very anxious to have these Debates printed and I would be in favor of the proposition of the gentleman from Allegheny if I thought it would secure their printing. But the first resolution requires them to be printed at the expense of the State Printer and if not printed by him within six months, the Superintendent of Public Printing is to print them at the expense of the Printer. My idea is that when the Convention adjourns it will be entirely without power to enforce its contracts and that there is no power in the State to enforce our contracts; or, at least, no power that will do so. I would prefer that these resolutions be withdrawn and that we should pass a simple resolution referring the whole matter to the Legislature for such action as they may think proper to take in the premises.

We want the Debates, because these volumes as they have been received have been distributed, and unless the sets are made complete those we have will be of no value. The resolutions as now presented afford no remedy for this trouble. Under them the State Printer will not carry out his contract and there is no power which can enforce it. I hope the resolutions will be voted down.

Mr. HAY. The resolutions certainly will not be withdrawn, because I think it necessary for the Convention to take some action such as is therein indicated. It has been claimed that the printing of these volumes of the Debates and putting them in the printing office of the printer was a delivery to this body, and that the State is bound to pay for them the same as if they had been actually received, under the direction of the Convention and in accordance with the contract, by the members of this Convention. We ought to say that there is no delivery and that we have never received

these volumes; that under the contract the Printer who agreed to furnish them to us is still bound to by his contract to do so.

The PRESIDENT. The question is upon the amended resolution.

Mr. HARRY WHITE. On that question I call for the yeas and nays.

Mr. COCHRAN. I second the call.

Mr. HARRY WHITE. Mr. President: I am exceedingly anxious to be entirely practical in this matter. I apprehend there is no difference of opinion in the minds of members of the Convention as to what they desire. We want two things settled. First, we want the missing volumes supplied. We want that done in the most expeditious and economical manner. Now, I confess I am not prepared to vote for these resolutions. I can conceive of difficulties hereafter which they may create between the Public Printer, Benjamin Singerly, with whom this contract was made, and our Commonwealth, and I think we should make haste slowly in this matter and take no step that we do not know what will be the consequence of.

Now, how is this? We pass a resolution requiring the Public Printer to supply the wanting volumes within a certain period under his contract. Will he do that? Can he do it, or can the Commonwealth compel him to do it? I am not prepared to answer that question. I do not know what view the State Printer takes upon this matter. I do not know whether this proposition comes here under his auspices or not. I certainly think we should know what will likely be the legal consequences entailed on the Commonwealth by the adoption of this resolution, and for the purpose of getting information upon that subject, I move that this matter be referred to the Committee on Accounts and Expenditures, with instructions to confer with the Public Printer and report to the Convention. ["No!" "No!"]

Mr. WORRELL and OTHERS. The yeas and nays have been ordered on the resolution.

The PRESIDENT. It is moved to refer the whole matter to the Committee on Accounts and Expenditures.

Mr. HAY. Were not the yeas and nays called for on the resolution?

The PRESIDENT. They were not ordered. The question is on the motion to refer made by the delegate from Indiana.

The motion was not agreed to, there being on a division less than a majority of a quorum voting in the affirmative.

The PRESIDENT. The question recurs on the passage of the resolution as amended, upon which the yeas and nays have been called for.

Mr. BOWMAN. Have the yeas and nays been ordered in this case? I think if the Chair will withdraw that call for a moment, we can settle this question right here and to the satisfaction of the gentlemen present. If the President will withdraw the order for the yeas and nays—I am aware that otherwise it is not in order to make an explanation. I desire to say a word.

The PRESIDENT. The yeas and nays have not yet been ordered by the Chair to be taken.

Mr. BOWMAN. Very well. The gentleman named in this resolution is upon the floor, and it may as well be understood now as at any future period, that he absolutely and unconditionally refuses to print the two missing volumes. Now, what will be the result if you pass this resolution? It is provided that the State Printer is to print the two volumes, to wit, the seventh and eighth, within the period of six months, as defined in this resolution. In case he fails to do that, then the matter is to be handed over to the Superintendent of Public Printing, and he is to cause these volumes to be printed and charge the expense of doing it to Mr. Singerly. That, in short, is the resolution before the Convention. Is it practical? Look at it. Suppose it passes, in view of the fact that he refuses to print these volumes, and then after the expiration of six months they are not printed, the whole question then goes into the hands of the Superintendent of Public Printing and expense is incurred. Perhaps a contract is made on the part of the Legislature by the Superintendent of Public Printing. It is not done within the six months, and if it is not done within six months the volumes will not be worth so much as the blank paper. I have not distributed one single volume yet. I never proposed to do so until the set was complete, and I want to know whether the set is going to be completed or not before I begin; and every man who gets a volume of these Debates wants to know when the whole set will be ready. Just look at it for one moment. Here in the seventh and eighth volumes

of the Debates is contained information that you cannot find in the six preceding it. What is contained in the sixth has been overruled in the seventh and eighth, and a man looking for information in the first six volumes will not find it there; he will not find the truth, and we may as well settle this question now and here as to go any further.

Another thing, who knows that the Printer is liable? After waiting six months, if we do not get the volumes printed within that period of time, then they are handed over to be printed by somebody else, and a law-suit springs up between the Commonwealth on the one side and Benjamin Singerly on the other; and is any gentleman prepared here today upon this floor to say that he has not the best of this bargain? Let us look. Have this Convention complied with the whole terms of the contract entered into by Benjamin Singerly to do this printing? In July last it was found that there was a balance due him. What for? For printing, not only the Debates but the Journal. The Journal had not been distributed. How could a balance be due him for work that he had not already done? Though the chairman of the Committee on Accounts presented a resolution for the information of this Convention that that was the state of facts, has he received his pay? By no manner of means.

But, sir, it is unnecessary to argue this question further. Unless we can have these Debates printed before six months from now, they are not worth as much as so much blank paper, and for one I cannot support this resolution.

Mr. STANTON. Mr. President: Is an amendment still in order?

The PRESIDENT. It is.

Mr. STANTON. Then I move to strike out all after the word "*Resolved*" and insert: "That the Auditor General be instructed to contract for the seventh and eighth volumes of Debates and for the Journal." We can do that, and if we do not, we shall be out of existence before the committee can make any arrangement or contract with anybody else for the absent volumes.

My amendment is to strike out all after the word "*Resolved*" and insert:

"That the Auditor General be requested to contract for the seventh and eighth volumes of Debates and the Journal."

Then it will be done, but we cannot do it ourselves.

The PRESIDENT. The question is on the amendment offered by the gentleman from Philadelphia (Mr. Stanton.)

Mr. COCHRAN. Is that amendment in order? The resolutions as they stand were voted in as an amendment to an original resolution. Can that matter now be stricken out and other matter inserted in lieu of it? ["No." "No."] I think the amendment is not in order.

The PRESIDENT. If the point is insisted on, the Chair will rule that the amendment is out of order.

Mr. AINEY. I simply desire to say that this Convention has no official knowledge that the present Printer is not now completing his work. I voted for the motion of the gentleman from Indiana, because it seemed to me to be the right thing to do. It will take but a moment. The Printer who has contracted for the printing of these Debates is on the floor. Let the Committee on Printing confer with him and bring before this body his answer. Then we shall have something to go upon. If he declines to fulfill his contract, then we can act. Then we can direct the printing of the missing volumes and do it intelligently, do it in such a way that it shall be binding.

I fear that if we direct the Auditor General to complete this work, it will be a waste of time. I do not believe that the Auditor General, or at least we have no evidence that the Auditor General will at all listen to our instructions. We have no control over that officer. I hope that this matter will now be referred to the Committee on Printing and let us have the answer of the contractor, the gentleman who has contracted to print these Debates. It seems to me that that is the right thing to do before we can act intelligently on the subject.

The PRESIDENT. The Clerk will call the names of delegates on the resolution as amended.

The question being taken by yeas and nays, resulted as follow :

Y E A S .

Messrs. Addicks, Bailey, (Huntingdon,) Bartholomew, Beebe, Biddle, Bigler, Brodhead, Brown, Bullitt, Calvin, Campbell, Dallas, Fulton, Guthrie, Hall, Hay, Hemphill, Heverin, Kaine, Littleton, Long, Parsons, Patterson, T. H. B., Purviance, Samuel A., Reed, Andrew, Ross, Runk, Smith, Win. H., Turrell,

Wetherill, John Price, Wherry and Worell—32.

N A Y S .

Messrs. Achenbach, Ainey, Alricks, Bailly, (Perry,) Baker, Barr, Bowman, Broomall, Buckalew, Church, Cochran, Corson, Cronmiller, Curtin, Cuyler, Darlington, Dodd, Edwards, Ellis, Gibson, Hanna, Hazzard, Horton, Howard, Hunsicker, Knight, Lamberton, Landis, Lawrence, Lilly, MacConnell, M'Camant, M'Clean, Mantor, Palmer, G. W., Patterson, D. W., Patton, Porter, Purviance, John N., Reynolds, Rooke, Russell, Sharpe, Smith, Henry W., Stanton, Struthers, Temple, Van Reed, Wetherill, J. M., White, Harry, Woodward, Wright and Walker, *President*—53.

So the resolution as amended was rejected.

ABSENT.—Messrs. Andrews, Armstrong, Baer, Bannan, Barclay, Bardsley, Black, Boyd, Carey, Carter, Cassidy, Clark, Collins, Corbett, Curry, Davis, De France, Dunning, Elliott, Ewing, Fell, Finney, Funck, Gilpin, Green, Harvey, Lear, MacVeagh, M'Culloch, M'Michael, M'Murray, Mann, Metzger, Minor, Mitchell, Mott, Newlin, Niles, Palmer, H. W., Pughe, Purman, Read, John R., Simpson, Smith, H. G., Stewart, White David N. and White, J. W. F.—47.

GOVERNOR'S PROCLAMATION.

Mr. J. N. PURVIANCE. Mr. President: I offer the following resolution:

WHEREAS, It appears by the returns of the election in the several counties of the State held on Tuesday, the 16th day of December, A. D. 1873, that the new Constitution has been adopted by a majority of 144,362; therefore,

Resolved, That His Excellency the Governor, be informed by the President of the Convention of this result, and that he be respectfully requested to issue his proclamation thereof without delay—

Mr. STANTON. I rise to a point of order. The question now pending before the Convention is in regard to disposing of the printing matter. We are on that at the present time.

The PRESIDENT. That has been disposed of.

Mr. STANTON. The amendment was voted down.

The PRESIDENT. The resolution was voted down. The reading of the resolution offered by the delegate from Butler (Mr. J. N. Purviance) will be continued.

The reading of the resolution was concluded as follows:

"That for the Constitution as appears by the returns made to the President of the Convention in open Convention:

For the new Constitution..... 253,560
Against the new Constitution... 109,198
showing a majority as above stated.

Resolved, That the returns of this election made to this Convention be certified by the President and Chief Clerk and deposited in the office of the Secretary of the Commonwealth.

The resolution was ordered to a second reading and read the second time.

The PRESIDENT. The first resolution is before the Convention.

Mr. KAINE. I move to amend that resolution by inserting that the returns be published as well as certified to the Governor.

Mr. STANTON. That refers to the second resolution.

The PRESIDENT. The first resolution will be again read to see whether the amendment comes in properly there.

The CLERK again read the first resolution.

Mr. KAINE. I call for the yeas and nays on the first resolution.

The PRESIDENT. Whose seconds the call? ["No one."]

The first resolution was agreed to.

The second resolution was read.

Mr. HUNSICKER. I cannot see the necessity of that resolution. The Secretary of the Commonwealth has the official returns already, and he has got them counted up, and he counts us a thousand more than we figure it out. [Laughter.]

Mr. J. N. PURVIANCE. I offer that resolution for the reason that I know of no other or safer depository for these returns than the Secretary of the Commonwealth. Where are we to keep them if not in his office? This body dissolves; there is no officer of the body to be the proper and safe custodian of these returns. Therefore I take it the office of the Secretary of the Commonwealth is the proper place.

The second resolution was agreed to.

The PRESIDENT. The preamble will next be read.

The preamble was agreed to.

NEW PRINTING CONTRACT.

Mr. STANTON. I offer the following resolution:

Resolved, That the Auditor General and Attorney General be instructed to contract for the printing and binding of

the seventh and eighth volumes of Debates and the Journal of this Convention.

On the question of ordering the resolution to a second reading, it was determined in the negative.

UNSETTLED ACCOUNTS.

Mr. HAY. I offer the following resolution:

Resolved, That all unsettled accounts for the expenses of this Convention be referred to the Auditor General and Attorney General of the Commonwealth for settlement, and that when so settled the same be paid out of the appropriation made for the expenses of this body.

The resolution was ordered to a second reading and read the second time.

Mr. J. N. PURVIANCE. I move to amend by striking out "Attorney General" and inserting "State Treasurer." ["No." "No."]

The PRESIDENT. The question is on the amendment.

Mr. J. N. PURVIANCE. I would remark in regard to that amendment, that the Auditor General and State Treasurer are the proper accounting officers of this Commonwealth. There would be no reason whatever for making a change in regard to the settlement of these accounts from any other accounts. The Attorney General is not a financial officer of the Commonwealth in any sense whatever, never has been so considered from the organization of the Government to the present time, and therefore it would be out of place and an improper act on the part of this Convention to pass by the proper legal accounting officer, the State Treasurer, and substitute for him the Attorney General. I, therefore, hope that my amendment will prevail.

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

The amendment was rejected.

Mr. NEWLIN. Mr. President: I desire to state that the Executive Committee of the Convention incurred certain expenses for printing in regard to which they will be prepared soon to report to the Convention. There is the printing, for instance, of the pamphlet constitutions, which owing to the burning of the State Printer's house could not be done in the way ordered by the Convention, and therefore the committee had to receive bids in Philadelphia and award the contract to the lowest bidder. If this reso-

lution passes in this shape those bills will have to be audited by the Auditor General. They have been agreed upon and settled and the committee is ready to report to the House what is due. I trust that either this resolution will be withdrawn or that it will be voted down until these bills can be settled. Then there is the pay of the canvassers of Philadelphia; that will be included in the Executive Committee's report.

Mr. HAY. Well, sir,—

Mr. NEWLIN. Let this resolution be withdrawn now and come up afterwards.

Mr. HAY. I cannot see any reason why all the accounts of the Convention should not be settled in one way, why a particular set of accounts should be singled out for settlement here expressly and other accounts left to be settled in another way. If there is any particular reason for it, however, I have no objection, if it is necessary, that the resolution should be withdrawn. ["Withdraw it."]

The PRESIDENT. The question is on the resolution.

The resolution was rejected.

POWERS OF THE CONVENTION.

Mr. ARMSTRONG. I desire to make a report from the committee of thirteen appointed this morning.

The PRESIDENT. The report will be received and read.

The CLERK read as follows:

The committee appointed under the following resolution, to wit: "*Resolved*, That a committee of thirteen be appointed to submit resolutions declaring the sense of this Convention as to the extent of its powers," respectfully report:

That they have given their most earnest consideration to the subject committed to them, involving, as it does, the power of the people to exercise their indefeasible right to alter their form of government.

A proceeding, to which the Convention was not a party, has, in its effect and result, brought into controversy some of the fundamental principles of constitutional government. The opinion that has been pronounced in this proceeding contains doctrines, which, in our judgment, ought not to be left unchallenged. We believe them to be subversive of some of the absolute rights of the people. We therefore submit, for the action of the Convention, the following resolutions:

1. *Resolved*, That this Convention was called by authority of the people, as de-

termined by their vote under the act of 1871, declaring that a Convention should be called to amend the Constitution of this Commonwealth; and that this vote was a mandate to the Legislature, which that body was not at liberty to disobey or modify.

2. *Resolved*, That the Constitution of the State is the only recognized form of its government, and the people having expressly reserved to themselves the right to alter, reform, or abolish their government in such manner as they think proper, and having in distinct terms excepted this right out of the general powers of government, and declared that such right shall forever remain inviolate, this Convention deems it to be its duty to declare that it is not in the power of any department of an existing government to limit or control the powers of a Convention called by the people to reform their Constitution; and that the Convention, subject to the Constitution of the United States, is answerable only to the people from whom it derived its power.

(Signed)

W. H. ARMSTRONG, *Chairman*,
 GEORGE W. BIDDLE,
 THOMAS HOWARD,
 CHARLES R. BUCKALEW,
 WILLIAM BIGLER,
 ANDREW G. CURTIN,
 JAMES W. M. NEWLIN,
 J. M'DOWELL SHARPE,
 W. E. LITTLETON.

Mr. HARRY WHITE. I desire to submit a minority report, which I ask to have read.

The PRESIDENT. Will the Convention agree at this point to receive a minority report?

The question being put, the minority report was received and read as follows:

To the Convention.

The undersigned respectfully dissents from the action of the majority of the committee, whose report has just been made, for the reasons:

First. That since the submission to and adoption by the people, of the new Constitution, the labors and duties of the Convention have practically ceased and it is unwise and inexpedient at this time to make any enunciation of Constitutional Convention powers, which, not being submitted to or acted on by the people, will only be an expression of the opinion of a majority of the Convention.

Second. All the principles and conclusions announced in the report of the committee are not concurred in by the undersigned.

All of which is respectfully submitted.

HARRY WHITE.

The report of the committee was ordered to a second reading and read the second time.

Mr. HARRY WHITE. I offer the following resolution—

The PRESIDENT. The pending question is not a resolution; it is the report of the committee.

Mr. HARRY WHITE. I offer the following motion—

The PRESIDENT. Do you offer it as a substitute for the report of the committee or as an amendment to it?

Mr. HARRY WHITE. I offer it as a motion regulating the disposition of this report and I ask that it be read.

The PRESIDENT. It will be read in order that the Chair may understand what it is.

The CLERK read as follows:

Resolved, That it is unwise and inexpedient at this time to make any enunciation of Constitutional Convention powers, and therefore the question before the Convention be postponed.

Mr. BARTHOLOMEW. I call for the yeas and nays on that resolution.

Mr. BROOMALL. What is the question before the body?

The PRESIDENT. The question before the Convention is the resolutions attached to the report of the committee. The delegate from Indiana moves to amend those resolutions, as the Chair understands.

Mr. HARRY WHITE. I have moved to postpone the question before the Convention for the reasons stated in the paper I sent to the Clerk's desk, and on that I call for the yeas and nays.

The PRESIDENT. The delegate moves to postpone the consideration of the entire question. That is the question now before the Convention.

Mr. ARMSTRONG. I rise to a point of order. It is not competent for the gentleman in submitting a motion to postpone to state reasons which might involve discussion. If he moves to postpone, it must be a simple motion to postpone for the present or to postpone indefinitely. He cannot accompany it with reasons which might raise discussion.

The PRESIDENT. The Chair inquired of the delegate from Indiana whether he moved to amend, and he said no, substantially, but moved to postpone indefinitely. The Chair does not understand that the sentiment contained in the delegate's resolution is before the Convention, but simply the motion to postpone indefinitely.

Mr. BROOMALL. Upon that question I desire to say a word or two.

The PRESIDENT. It is open for discussion.

Mr. BROOMALL. I entirely agree with everything contained in the report of the committee, the preamble and the resolution. I think the doctrine sound; but I think it exceedingly injudicious for us to take any action upon the matter now. In the first place, the questions discussed there are judicial questions, and we have no judicial powers. That the positions asserted are sound, nine lawyers out of every ten in the State will agree; but the propriety of our asserting them at this time, I think an equal proportion of the lawyers will agree with me upon.

There is no use in defining our powers now. We are just upon the eve of an adjournment. If the questions had come up a year ago there would have been some sense in defining our powers; and in point of fact they did come up, and just the principles of these resolutions were laid down as the powers of the Convention as the Convention understood them, and the Convention is not likely to change its mind upon that subject.

I know that the recent decision of the Supreme Court has drawn into question the doctrine of the Convention. I submit to that decision as the law of the case decided—nothing further. We have submitted to it; the people of the State have submitted to it upon the question decided, and upon that question the people of the State have repudiated the doctrine of the Supreme Court. The doctrine of the Supreme Court upon which that case was ruled, I utterly and entirely deny.

But what possible good can come of our discussing these questions now? It is important to the people of the State that the respect in which the Supreme Court has been heretofore held should not be impaired by any action of their representatives here. Indeed, if the respect which the people of the State ought to have for the Supreme Court is lessened, let it be

done by that body and not by us; and my word for it, it will be done quite fast enough without our aid. I am in favor of adjourning without saying anything whatever about the unfriendly action of the Supreme Court recently had.

Mr. HARRY WHITE. The Chair misunderstood me; my motion was to postpone for the present, and on that I call for the yeas and nays.

Mr. BRODHEAD. I second the call.

The question being taken by yeas and nays, resulted as follows:

Y E A S .

Messrs. Addicks, Ainey, Bailey, (Huntingdon,) Baker, Bartholomew, Bowman, Broomall, Bullitt, Church, Corson, Dodd, Gilpin, Hanna, Hunsicker, Knight, Lawrence, Lilly, M'Michael, Parsons, Patterson, D. W., Patterson, T. H. B., Porter, Purviance, John N., Reed, Andrew, Reynolds, Rooke, Smith, Henry W., Wetherill, John Price, and White, Harry—29.

N A Y S .

Messrs. Achenbach, Armstrong, Baily, (Perry,) Barr, Beebe, Biddle, Bigler, Brodhead, Brown, Buckalew, Calvin, Campbell, Cochran, Cronmiller, Curry, Cuyler, Dallas, Darlington, Edwards, Ellis, Gibson, Guthrie, Hay, Hazzard, Hemphill, Heverin, Howard, Kaine, Lambertson, Landis, Littleton, MacConnell, M'Camant, M'Clean, Mantor, Newlin, Palmer, G. W., Patton, Ross, Runk, Russell, Sharpe, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Van Reed, Wetherill, J. M., Wherry, Woodward, Worrell, Wright and Walker, *President*—55.

So the motion to postpone was not agreed to.

ABSENT.—Messrs. Alricks, Andrews, Baer, Bannan, Barclay, Bardsley, Black, Boyd, Carey, Carter, Cassidy, Clark, Collins, Corbett, Curtin, Davis, De France, Dunning, Elliott, Ewing, Fell, Finney, Fulton, Funck, Green, Hall, Harvey, Horton, Lear, Long, MacVeagh, M'Culloch, M'Murray, Mann, Metzger, Minor, Mitchell, Mott, Niles, Palmer, H. W., Pughe, Purman, Purviance, Sam'l A., Read, John R., Simpson, Stewart, White, David N. and White, J. W. F.—48.

Mr. HUNSICKER. I rise to call the previous question on the pending report.

The call for the previous question was seconded by Messrs. Heverin, Ross, T. H. B. Patterson, Church, Parsons, Patton, Reynolds, Runk, Bartholomew, Van

Reed, H. W. Smith, Stanton, Edwards, Hanna, Dodd, MacConnell, William. H. Smith and Barr.

The PRESIDENT. Shall the main question be now put?

Mr. HARRY WHITE. On that I call for the yeas and nays.

Mr. HEMPHILL. I second the call.

The yeas and nays were taken and resulted as follow:

Y E A S .

Messrs. Achenbach, Baily, (Perry,) Barr, Bartholomew, Beebe, Bigler, Bowman, Broomall, Calvin, Church, Corson, Cuyler, Dodd, Edwards, Fulton, Hanna, Hay, Hazzard, Heverin, Hunsicker, Knight, Lilly, Littleton, MacConnell, M'Camant, M'Michael, Newlin, Parsons, Patterson, T. H. B., Patton, Porter, Purviance, John N., Reynolds, Rooke, Ross, Runk, Russell, Smith, H. G., Smith, H. W., Smith, Wm. H., Stanton, Van Reed, Wetherill, John Price and Wright—44.

N A Y S .

Messrs. Addicks, Ainey, Armstrong, Bailey, (Huntingdon,) Baker, Biddle, Brodhead, Brown, Buckalew, Bullitt, Campbell, Cochran, Cronmiller, Curry, Curtin, Darlington, Gibson, Gilpin, Guthrie, Hemphill, Howard, Kaine, Lambertson, Landis, Lawrence, M'Clean, Mantor, Palmer, G. W., Patterson, D. W., Reed, Andrew, Sharpe, Struthers, Temple, Turrell, Wetherill, J. M. Wherry, White, Harry, Woodward, Worrell and Walker *President*—40.

So the main question was ordered to be put.

ABSENT.—Messrs. Alricks, Andrews, Baer, Bannan, Barclay, Bardsley, Black, Boyd, Carey, Carter, Cassidy, Clark, Collins, Corbett, Dallas, Davis, De France, Dunning, Elliott, Ellis, Ewing, Fell, Finney, Funck, Green, Hall, Harvey, Horton, Lear, Long, MacVeagh, M'Culloch, M'Murray, Mann, Metzger, Minor, Mitchell, Mott, Niles, Palmer, H. W., Pughe, Purman, Purviance, Samuel A., Read, John R., Simpson, Stewart, White, David N. and White, J. W. F.—48.

The PRESIDENT. The question now is on the adoption of the report.

Mr. DALLAS. I call for the yeas and nays.

Mr. J. N. PURVIANCE. I second the call.

Mr. LAWRENCE. Are there not two resolutions?

The PRESIDENT. Yes, sir.

Mr. LAWRENCE. Cannot we vote on both at once?

Mr. HARRY WHITE. I rise to a parliamentary inquiry. The previous question has been called. The question before the body at the time was the report of the committee as a whole. I ask the Chair does not that bring up the whole series of resolutions reported by the committee?

The PRESIDENT. The point of order is not sustained and the resolutions will be submitted separately. The question is on the adoption of the first resolution, which will be read:

The CLERK read as follows:

Resolved, That this Convention was called by the authority of the people, as determined by their vote under the act of 1871, declaring that a Convention should be called to amend the Constitution of this Commonwealth; and that this vote was a mandate to the Legislature which that body was not at liberty to disobey or modify.

The yeas and nays were called.

Mr. COCHRAN. (When his name was called.) I merely wish to state before voting that I did not sign the report of the committee; my name is not appended to it. Whatever objection I had was against the form of it and not against the principles announced in the report. Therefore I vote "yea."

The call of the roll was completed, and the result announced as follows:

YEAS.

Messrs. Achenbach, Ainey, Alricks, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Barr, Bartholomew, Beebe, Bidle, Bigler, Bowman, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Campbell, Church, Cochran, Corson, Cronmiller, Curry, Curtin, Cuyler, Dallas, Darlington, Dodd, Edwards, Ellis, Gibson, Gilpin, Guthrie, Hay, Hazzard, Hemphill, Heverin, Howard, Hunsicker, Kains, Knight, Lamberton, Landis, Lilly, Littleton, MacConnell, M'Camant, M'Clean, M'Michael, Mantor, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purviance, Samuel A., Reed, Andrew, Reynolds, Ross, Runk, Russell, Sharpe, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Van Reed, Wetherill, J. M., Wetherill, Jno. Price, Wherry, Worrell, Wright and Walker *President*—77.

NAYS.

Messrs. Baker, Fulton, Hanna, Lawrence, Purviance, John N., Smith, Henry W. and White, Harry—7.

So the first resolution was agreed to.

ABSENT.—Messrs. Addicks, Andrews, Baer, Bannan, Barclay, Bardsley, Black, Boyd, Carey, Carter, Cassidy, Clark, Collins, Corbett, Davis, De France, Dunning, Elliott, Ewing, Fell, Finney, Funck, Green, Hall, Harvey, Horten, Lear, Long, Mac Veagh, M'Culloch, M'Murray, Mann, Metzger, Minor, Mitchell, Mott, Niles, Palmer, H. W., Parsons, Pughe, Purman, Read, John R., Rooke, Simpeon, Stewart White, David N., White, J. W. F. and Woodward—48.

The PRESIDENT. The question is on the second resolution which will be read.

The CLERK read as follows:

Resolved, That the Constitution of the State is the only recognized form of its government, and the people having expressly reserved to themselves the right to alter, reform, or abolish their government in such manner as they think proper, and having in distinct terms excepted this right out of the general powers of government and declared that such right shall forever remain inviolate, this Convention deems it to be its duty to declare that it is not in the power of any department of an existing government to limit or control the powers of a Convention called by the people to reform their Constitution, and that the Convention, subject to the Constitution of the United States, is answerable only to the people from whom it derived its power."

Mr. HARRY WHITE. I call for the yeas and nays.

Mr. J. PRICE WETHERILL. I second the call.

The CLERK proceeded to call the roll.

Mr. AINEY. (When his name was called.) I will vote "nay" on this question, although I fully concur with the report of the committee so far as it asserts the powers of this Convention; but for the reasons so well stated by the gentleman from Delaware, and which it is unnecessary to repeat, I deem it inexpedient and unwise for the Convention to take any further action here.

Mr. LAMBERTON. (When Mr. Church's name was called.) I have been requested by Mr. Church and Mr. Reynolds to state that they were compelled to leave the Convention after having paired on

this subject. Mr. Church, if here, would vote in the affirmative, Mr. Reynolds in the negative.

The call of the roll was concluded and the result announced as follows:

Y E A S.

Messrs. Achenbach, Alricks, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Barr, Beebe, Biddle, Brodhead, Brown, Buckalow, Bullitt, Calvin, Campbell, Cochran, Cronmiller, Curry, Curtin, Cuyler, Dallas, Darlington, Edwards, Ellis, Fulton, Gibson, Gilpin, Guthrie, Hay, Hazzard, Hemphill, Heverin, Horton, Howard, Kaine, Lambertson, Landis Lilly, Littleton, MacConnell, M'Canant, M'Clean, Mantor, Newlin, Palmer, G. W., Parsons, Patterson, T. H. B., Patton, Porter, Purviance, Sam'l A., Reed, Andrew, Ross, Runk, Russell, Sharpe, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Van Reed, Wetherill, J. M., Wherry, Worrell, Wright and Walker, *President*—66.

N A Y S.

Messrs. Ainey, Baker, Bowman, Hanna, Hunsicker, Knight, Lawrence, M'Michael, Patterson, D. W., Purviance, John N., Rooke, Wetherill, John Price and White, Harry—13.

So the second resolution was agreed to.

ABSENT.—Messrs. Addicks, Andrews, Baer, Bannan, Barclay, Bardsley, Bartholomew, Bigler, Black, Boyd, Broomall, Carey, Carter, Cassidy, Church, Clark, Collins, Corbett, Corson, Davis, De France, Dodd, Dunning, Elliott, Ewing, Fell, Finney, Funck, Green, Hall, Harvey, Lear, Long, MacVeagh, M'Culloch, M'Murray, Mann, Metzger, Minor, Mitchell, Mott, Niles, Palmer, H. W., Pughe, Purman, Read, John R., Reynolds, Simpson, Smith, Henry W., Stewart, White, David N., White, J. W. F. and Woodward—53.

Mr. BUCKALEW. I move the Convention take a recess until six o'clock.

The motion was agreed to, and at two o'clock and fifty-six minutes P. M. the Convention took a recess until six o'clock P. M.

EVENING SESSION.

The Convention re-assembled at six o'clock P. M.

LETTER FROM MR. DE FRANCE.

The PRESIDENT laid before the Convention the following letter, which was read:

MERCER, Dec. 24, 1873.

Hon. JOHN H. WALKER,

President of Convention:

DEAR SIR:—I do not think I can be with you at Harrisburg. I am not in very good health, having fallen lately and hurt my left arm and side.

I think we botched sections eleven and thirteen of the Schedule, and if the Convention can remedy them, it ought to do so sure. If the matter is not remedied, Governor Hartranft will appoint a great many judges to serve until after next fall's election.

Let me congratulate you on being the honorable President of a *sovereign* Convention (the Supreme Court to the contrary) which did its work more in accordance with the people's wishes and more against the wishes of the criminals and bad men of the Republic than any Constitution ever formed on American soil.

Please give my kind regards to your boy, Struthers, and believe me

Ever the friend of all good boys,

R. M. DE FRANCE.

[The reading of the first portion of the letter was received with applause and the latter portion caused much merriment.]

COMMUNICATION FROM B. SINGERLY.

The PRESIDENT. A communication from Mr. Singerly was received in the forenoon, but it was mislaid and not submitted to the Convention. It will now be read.

The CLERK read as follows:

STATE PRINTING OFFICE,
Canal St. below State St.,
Harrisburg, Dec. 27, 1873. }

Hon. JOHN H. WALKER,

Pres't Constitutional Convention of Pa.

SIR:—It is due to the honorable body over which you preside and to myself, that you should be informed of the fact that my printing establishment, with all its contents, was totally destroyed by fire November 5th. Official and private investigation proves the fire to have been the work of an incendiary. Among the property destroyed were one thousand three hundred and twenty-five copies of the Journal of the Convention, four thousand five hundred copies of the seventh and eighth volumes of the Debates, together with one thousand six hundred additional copies of the Debates purchased from me by your honorable body; also, two hundred and ninety-four copies each of volumes one, two, three, four,

five and six, bound and ready for shipment on order of Convention.

My loss has been very heavy and was not covered by any insurance. I respectfully pray that you will take the facts into consideration in the settlement of my accounts, and in such further orders as you may give me for work that your action may not be unfavorable to me.

I remain, as ever, yours, &c.,

B. SINGERLY.

RE-PRINTING OF DEBATES AND JOURNAL.

Mr. HUNSICKER. I offer the following resolution :

Resolved, That the seventh and eighth volumes and full bound members' copy of the sixth volume of Debates and the Journal of this Convention be re-printed, and that all the unsettled accounts of this Convention, including the re-printing aforesaid, be referred to the Auditor General for settlement, and payment out of appropriations made or to be made for that purpose.

The resolution was ordered to a second reading and read the second time.

Mr. DARLINGTON. I beg to offer an amendment as a substitute, which the gentleman from Montgomery will see covers the same ground, and more too :

WHEREAS, Benjamin Singerly contracted to do all the printing for the Convention at prices agreed upon by written contract, and before the printing of the Debates and Journal of the Convention was completed a fire occurred in his printing establishment, and a portion of the work ordered by the Convention remains unperformed and the Convention is about to adjourn, and it is impracticable for it to give any further attention to the subject ; therefore,

Resolved, That it is recommended to the Legislature to order and direct the printing and publication of so much of the Debates and Journal as were ordered by the Convention and remains unpublished, and have them forwarded to the delegates and others to whom they were directed to be furnished.

The PRESIDENT. The amendment is before the Convention.

Mr. ARMSTRONG. The Executive Committee appointed by the Convention, when the fire occurred, sent a sub-committee to Harrisburg to ascertain the facts, so far as they were able to do so, and have subsequently had the matter under consideration. In their meeting this evening, during the recess, they pre-

pared a resolution on this subject which I was instructed to offer, and which I will read for information as part of my remarks :

Resolved, That Benjamin Singerly, Printer to the Convention, be instructed to reproduce the seventh and eighth volumes of the Debates and the Journal destroyed by fire, and to publish the same under the terms of his contract with the Convention, together with a general index, uniformly with the volumes already published ; the paper therefor to be procured by him from W. W. Harding, under his contract with the Convention, and the accounts to be referred to the Auditor General for collection.

SEVERAL DELEGATES. That is right.

Mr. HUNSICKER. If I can withdraw my resolution, I will do so.

The PRESIDENT. You can if the delegate from Chester withdraws his amendment to it.

Mr. DARLINGTON. I am not particular as to the form. I will withdraw mine too.

Mr. STANTON. The resolution of the gentleman from Lycoming does not include the sixth volume.

Mr. H. G. SMITH. I suggest that a resolution directing the sixth volume to be bound in uniform style with those furnished would require the re-printing and re-binding of the whole of that volume, and it would cost immensely more than it would be proper to expend under the circumstances. Members of the Convention ought to be satisfied to take the sixth volume as it stands with the ordinary binding. We ought not by any manner of means to insert that. The resolution offered by the gentleman from Lycoming fully meets all the facts of the case.

The PRESIDENT. The original having been withdrawn, the delegate from Lycoming offers a resolution, which will be read.

The CLERK read as follows :

Resolved, That Benjamin Singerly, Printer to the Convention, be instructed to re-produce the seventh and eighth volumes of the Debates and the Journal, destroyed by fire, and to publish the same under the terms of his contract with the Convention, together with a general index uniformly with the volumes already published ; the paper therefor to be procured by him from W. W. Harding, under his contract with the Convention, and

that the accounts for the same be referred to the Auditor General for settlement.

The resolution was ordered to a second reading and read the second time.

Mr. ARMSTRONG. Mr. Singerly has authorized me to state to the Convention that if any member will return to him the sixth volume which is now published, it will be rebound by him without expense and returned to the member uniform with those furnished.

Mr. ELLIS. Let me ask the gentleman, would not that destroy one whole set?

Mr. ARMSTRONG. I suppose it would.

Mr. DARLINGTON. I think the gentleman from Lycoming can accomplish his object in a better way than that. We, each of us, had furnished to us on our desks the matter which comprised the sixth as well as other volumes. We can send that to Mr. Singerly and let him make a volume of it.

Mr. ARMSTRONG. It is better to loose one set than go to the expense of republishing the entire volume. So that I think the resolution covers all that is necessary.

Mr. J. N. PURVIANCE. I will suggest as an amendment, after the words "Auditor General" to insert "and State Treasurer." ["No." "No."] The reason I do so is this: Under the act of 1811, under which this Commonwealth has been adjusting the accounts of claimants against it for sixty odd years, they are settled in the Auditor General's office and approved by the State Treasurer. There is no other mode of settling public accounts. They are the accounting officers of the Commonwealth, and why not have this account settled in the usual way, instead of referring it to one officer and ignoring the other? I therefore move to insert after "Auditor General" the words "and State Treasurer."

Mr. ARMSTRONG. I see no objection to that; it is the uniform practice; and I accept the modification.

The PRESIDENT. Then the question is on the resolution as modified.

The resolution was adopted.

FAC SIMILE COPIES OF THE CONSTITUTION.

Mr. TEMPLE. I offer the following resolution.

Resolved, That Messrs. Gillin and Nagle, of Philadelphia, be instructed to furnish to the Convention for the use of the members, one hundred and fifty *fac simile* copies of the Constitution, (the copy de-

posited in the office of the Secretary of the Commonwealth,) the cost of the same not to exceed four hundred and sixty dollars.

The resolution was ordered to a second reading and read the second time.

Mr. TEMPLE. I will state for the information of the members that these copies have already been prepared, and they are here now for the members. They seem to have been prepared by general understanding with the Committee on Accounts.

Mr. HAY. I beg to correct the gentleman. There was no such understanding with me.

Mr. TEMPLE. I so understood it. At any rate, they have been prepared, and the chairman of the committee on Accounts has the bill for them, and I believe, at the instance of Mr. Hay, this resolution was introduced.

Mr. CORSON. What is the bill?

Mr. TEMPLE. Four hundred and sixty dollars: They have been prepared and are here now for delivery to members. After they have been prepared it does not seem fair to these gentlemen that they should be rejected.

The resolution was rejected, the ayes being thirty-one, less than a majority of a quorum.

Mr. HAY. The resolution I believe is still before the Convention, and I desire to say—

Mr. TEMPLE. No, sir, the resolution has been voted down, and I desire to say that the Committee on Accounts have had this bill before them, and with all due deference to the vote of the Convention, it ought to be passed.

R. A. WEST.

Mr. CURTIN. I offer the following resolution:

Resolved, That a warrant be drawn by the President and Chief Clerk of the Convention, in favor of R. A. West, for four hundred dollars, for reporting proceedings in the Supreme Court.

The Convention refused to order the resolution to a second reading, the ayes being twenty-seven, less than a majority of a quorum.

CONGRATULATORY ADDRESS.

Mr. HARRY WHITE. I offer the following resolution:

Resolved, That the Convention has received with profound gratification the returns of the election held on the sixteenth

instant, from which it appears that the new Constitution has been adopted by a majority of one hundred and forty-four thousand three hundred and sixty-two votes, and the Convention congratulates the whole people of the Commonwealth on the adoption of a new organic law so full of those reforms imperatively demanded in the interest of good government.

The Convention refused to order the resolution to a second reading, the ayes being twenty-one, less than a majority of a quorum.

REPORT OF EXECUTIVE COMMITTEE.

Mr. ARMSTRONG. I desire to submit a report from the Executive Committee appointed by the Convention, and in connection with that report, (and as it is referred to in the report of the committee I suppose it is proper that they should be offered together,) I offer the special report of Mr. Fidler and others who were the commissioners appointed by the Convention.

The CLERK read the report, as follows:
To the Constitutional Convention:

The Executive Committee appointed by resolution of the Convention "to attend to the publication of the Constitution, and any other matter in relation to the submission of the same, and to report to the Convention at Harrisburg," in accordance with the terms of their appointment, present the following report:

That immediately upon the adjournment of the Convention at Philadelphia, on November 3d, your committee permanently organized by the election of Mr. William H. Armstrong as Chairman, and the appointment of Messrs. Jas. W. M. Newlin and John R. Read, Secretaries, and Mr. John Price Wetherill, Treasurer.

Mr. Jos. I. Gilbert was elected Clerk and Stenographer, and Moses Bowman, Messenger.

To facilitate the labors of the committee, a sub-committee, upon whom were conferred all the powers of the general committee, was constituted as follows: Messrs. Buckalew, Wetherill, Newlin, Read and Howard, (Chairman.) Two daily sessions were held by the sub-committee, from the date of their appointment up to the day of the election, to promote the one great object of your committee, namely, the prompt dissemination of information whereby the people of the Commonwealth would be enabled to vote intelligently upon the many reforms con-

tained in the instrument presented for their ratification or rejection.

The head-quarters of the committee were located at Philadelphia, and, by permission of the authorities, the use of the room known as the President's Room, adjoining the hall previously used by the Convention, was secured without expense.

The sudden and complete destruction by fire of the establishment of the State Printer, at Harrisburg, which occurred on the day after the adjournment of the Convention, deprived your committee of the agency upon which they had relied for the prosecution of the work devolving upon them. Availing themselves of what appeared to be the only alternative, the committee at once issued proposals, and invited bids from some of the largest printing firms of Philadelphia for the printing and binding of 21,000 pamphlets to contain the full text of the new Constitution; the report of the Committee on Revision and Adjustment, and the Ordinance of Submission. Messrs. Ringwalt & Bowman were awarded the contract as the lowest bidders, and the number of pamphlets was subsequently increased from 21,000 to 50,000. A like number (50,000) copies of an address prepared by the committee were also provided for. The accompanying bills for these items of expense are in accordance with the contract rates. The printing contract was executed with the utmost dispatch, and the printed matter immediately forwarded to the members of the Convention in proportionately equal quantities—275 of the Constitution, etc., and 200 copies of the address being supplied to each member by express, and the surplus distributed as applications for documents were made from time to time to meet the wants of particular localities.

For the purpose of stimulating inquiry into and disseminating information concerning the reforms contemplated by the new Constitution, several printed circulars were issued and widely distributed, and a system of correspondence by mail and telegraph was constantly maintained by the committee with members of the Convention and others identified with the reformatory movement. In many counties, the chairmen of the county committees of the two great political parties were in entire accord with your committee, and by their active co-operation and that of their local organizations, proved them-

selves most efficient auxiliaries in the great result of carrying to a successful issue the work of the Convention. Through this and similar agencies, particularly that of direct personal correspondence, public sentiment was more or less agitated and aroused in many localities, and the people of the State awakened to a sense of the magnitude and significance of the election in its bearing upon the well-being and future prosperity of the State.

Upon the adjournment of the Convention, the commissioners appointed to conduct the election in the city of Philadelphia, conferred with your committee and immediately proceeded to arrange all the details appertaining to the performance of their duties. Steps were also taken by the commissioners, with the knowledge of your committee, to secure from the local authorities the appropriation necessary to defray the expenses incident to the election. Appointments of canvassers for all the election divisions of the city and of election officers in nearly all the divisions were agreed upon, among other preliminaries, and the former had not only entered upon their appointments, but had nearly completed a full registration of the voters of the city, when all further proceedings, under the direction of the commissioners, were arrested by an injunction from the Supreme Court, issued at the instance of certain tax-payers, restraining the functions of the board, and prohibiting any further expenditure by them of the funds of the city.

The questions involved in the application for this injunction were elaborately argued before the court; the commissioners being represented by Messrs. James W. M. Newlin, Geo. W. Biddle, Chas. R. Buckalew and Wm. H. Armstrong, members of this body. The judgment of the court absolutely restraining further proceedings by the commissioners in the conduct of the election is doubtless familiar to the Convention. The decree of the most authoritative legal tribunal in the State was of course promptly obeyed by the commissioners, who thereafter ceased to perform any of the duties of their appointment. The preparations made by the commissioners to ensure a fair election, particularly in the perfection of a thorough and reliable registration of voters and in the selection of competent and suitable election officers, were of

great service to your committee. The arrangements consummated by these appointees for the conduct of the election as far as they went, were most thorough and complete, and resulted in placing in the hands of the committee, as the representatives of the Convention, an easy method for discovering and defeating any frauds that might have been attempted at such election.

These canvassers, until restrained by the decree of the court, discharged the duties of their appointment in good faith, and in the opinion of your committee, are entitled to and should receive proper compensation.

A resolution for the payment of expenses thus incurred has been authorized to be reported to the Convention. Your committee cannot leave this branch of their report without bearing testimony to the earnest activity and integrity of purpose with which the commissioners discharged the onerous duties imposed upon them. In entire sympathy with the efforts of the committee, they labored heartily to secure that fair and full consideration at the polls, of the new Constitution, which its merits and the interests of the people for whose protection it was framed demanded. It is the belief of your committee that the Convention was most fortunate in its selection of these gentlemen.

In consequence of the decree of the Supreme Court, as above referred to, a meeting of the General Executive Committee was held at Harrisburg on the evening of December 6th. At this meeting, it was deemed prudent by your committee to issue an address to the people of the State. A copy of this address is here annexed.

The registration books made out under the direction of the election commissioners are now in the custody of your committee, having been transferred to them by the commissioners for safe keeping. It would seem proper that some action should be taken in regard to the ultimate disposition to be made of them.

The report submitted to your committee by the board of commissioners detailing their proceedings and exhibiting an indebtedness on their part of six thousand six hundred and fifty-eight dollars, is herewith communicated to the Convention, with the recommendation of your committee that the said indebtedness be paid.

The minor incidental expenses attending the election have been defrayed through local subscriptions in Philadelphia. The bills reported by your committee for payment by the Convention aggregate less than nine thousand five hundred dollars. The following is a schedule of the items which we recommend to be paid :

For expenses of printing pamphlets, expressage on same, etc., etc.	\$2,248 85
For certificate of prothonetary of court of common pleas of Philadelphia, affixed to copy of election returns.....	20 00

The committee also recommend the adoption of the following resolution :

Resolved, That a warrant be drawn upon the State Treasurer in favor of the election commissioners, appointed by the ordinance of submission, for the sum of six thousand six hundred and fifty-eight dollars, for the payment by the said commissioners of the unpaid expenses incurred by them, under the said ordinance.

The following is the address of the Executive Committee hereinbefore referred to :

To the people of Pennsylvania :

The recent decision of the Supreme Court enjoining the commissioners appointed by the Convention from directing the election for the city of Philadelphia, makes it proper that this Executive Committee should briefly state the effects of the decision. The Convention was assembled by direct authority of the people, and exercised only such powers as they believed to be delegated to them and necessary to the performance of their work. Having neither the right nor the disposition to surrender any position taken by the Convention, and without entering upon the discussion of any controverted question, the committee earnestly recommend prompt acquiescence in the decree of the court. To avoid a possible misapprehension, we deem it proper to state, explicitly, that the decree affects only the question of officers by whom the election in Philadelphia will be conducted. The commissioners named by the Convention, with the desire to secure in that city a fair election, having been superseded, the election will therefore be held in Philadelphia, as in all other parts of the State, by the ordinary election officers, on December 16th, the day fixed by the Convention.

The committee invite attention to the fact that the active opposition to the work of the Convention is mainly from those whose business it is to trade in politics and to profit by corruption. It is impracticable in a short address to reply to all the misrepresentations which interested parties have made to affect adversely the vote upon the proposed Constitution; but we do distinctly affirm that the new Constitution does not impose or restore any tax upon real estate or other species of property, nor require the Legislature to impose or restore any tax whatever. It requires that all taxes shall be uniform on the same class of subjects, and leaves the classification to the unlimited discretion of the Legislature simply prohibiting all special exemptions upon property of the same class, and all favoritism and inequality in taxation, just and wholesome provisions in the interest of the people, which deserve a place in every fundamental law. It materially reduces the expenses of the government in saving on salaries and in the cost of printing and stationery and incidental expenses, the shortened Legislative sessions, the prevention of reckless appropriations of public money, &c. By decreasing the expense of the government, it will largely reduce taxation. The present State Capitol is abundantly large to accommodate the increased number of the Representatives, and will require no additional expenditure except for slight alterations of arrangement and additional seats for members. The limitations upon local, special and corporate legislation are only such as are necessary to prevent the abuses which experience has shown to have been most fruitful sources of corruption, and upon which the lobby has mainly insisted. The restrictions upon corporations are reasonable and necessary for the protection of the rights of citizens. They correct the abuses without limiting the efficiency or usefulness of corporate bodies.

No State institution of charity is denied proper aid from the Treasury, and private charities, not sectarian, can, by adequate vote of the Legislature, receive appropriations from the Commonwealth, while pensions and gratuities for military services and for the support of the widows and orphans of soldiers are expressly authorized. Appropriations for denominational or sectarian institutions are prohibited as contrary to the spirit of our institutions. The whole instrument has been framed with

the most careful regard to the best interests of the people, and to them we appeal to arouse to a just vindication of their rights. The opportunity is favorable to strengthen the security of property and liberty, and the contest is becoming more earnest and decisive between those who would preserve our institutions in their purity and those who for personal and selfish reasons seek to prevent the reforms which the people demand.

W. H. ARMSTRONG,
Chairman,
J. W. M. NEWLIN,
J. R. READ,
Secretaries.

HARRISBURG, December 8, 1873.

W. H. ARMSTRONG,
Chairman,
HARRY WHITE,
CHAS. R. BUCKALEW,
THOMAS HOWARD,
ROBERT A. LAMBERTON,
GEORGE V. LAWRENCE,
JAMES W. M. NEWLIN,
JOHN GIBSON,
JOHN R. READ,
JNO. PRICE WETHERILL,
JAMES. P. BARR,
RASSELAS BROWN,
FRANK MANTOR.

Executive Committee of the Convention.

The report of the Commissioners of Election is as follows:

The Commissioners of Election in account with the Constitutional Convention:

For pay of five hundred and seventeen canvassers, at fifteen dollars each.....	\$7,755
For pay of ninety-seven canvassers, at ten dollars each.....	970
	<hr/> 8,725
For amount required for clerk hire and other expenses in disbursing amount as above stated.....	300
	<hr/> 9,025
CR.	
By amount remaining unexpended in the hands of the commissioners.....	2,367
Balance.....	<hr/> 6,058

HARRISBURG, Dec. 26, 1873.

To the President and members of the Constitutional Convention:

GENTLEMEN:—The Commissioners of Election, appointed by your honorable body under the Ordinance of November 3, 1873, to conduct the election to be

held on the third Tuesday of December, 1873, beg leave, respectfully, to report:

That upon being informed of their appointment, they took the oath of office prescribed by the ordinance in open court of common pleas, and entered upon the performance of their duties by electing Edwin H. Fidler to act as president of their body, and Robert R. Corson to serve as secretary, and Richard C. Winship as assistant secretary.

Having secured and furnished the necessary rooms for their purposes, they published a call to all citizens who might be willing to serve as officers of election, inviting them to send their names to the office of the commissioners, and in answer to this call several hundred citizens, many of them of known respectability and standing, proffered their services. Through this call, and by the individual exertions of the commissioners, they were enabled to procure the services of a sufficient number of competent persons to conduct the election.

The duty having been imposed upon the commissioners of making a new registration of voters of the city of Philadelphia, the board, with a view to reduce the number of the appointments required to be made, and also from a sense of the advantages to be gained thereby, agreed to select two persons for each election division, whose duty it should be to make a canvass of the voters in their several divisions, and also to serve as inspectors of election.

The number of canvassers and inspectors thus selected was seven hundred and thirty-four, being two from each of the three hundred and sixty-seven election divisions of the city, and in addition there were also selected three hundred and sixty-seven persons to act as judges of election in the several divisions: making a total of eleven hundred and one persons who had been chosen by the commissioners when their labors were interrupted by the injunction issued out of the Supreme Court.

At an early stage of their work, the commissioners were brought into communication with the city commissioners of Philadelphia, and made a formal call upon the latter body to furnish the necessary ballot-boxes, books, papers, tickets, etc., for holding the election, and for making the registration, and requested them to make a requisition upon city councils for an appropriation to pay for

the services of the canvassers and election officers, and for the other and usual expenses of election. This requisition having been made, councils on November twenty-first appropriated the sum of \$31,713, in compliance with the estimate and requisition of the city commissioners. The proper forms were prepared by a committee of this body and furnished to the city commissioners, who procured the necessary books and blanks, provided new ballot-boxes, printed the tickets, and when called upon by this body furnished the canvass books and stationery for making the registry, the tickets and a portion of the election forms. They also, at the request of this commission, delivered the ballot-boxes at the various polling places under the supervision of an agent appointed by the commissioners of election, who was authorized to examine into the condition of the polls and to report whether any objection would be made to holding the election at the various places. Councils were notified of the necessity for selecting new polls, in some divisions, and action was taken by them with a view to such selection. The sheriff, also, at our request, issued his proclamation for the election as required by your ordinance.

The draft for five thousand dollars which had been drawn under the resolution of your honorable body, to pay the expense of this commission, although payment was delayed until the opinion of the Attorney General could be had upon the subject, was finally paid and the amount placed to the credit of the treasurer, Edward Browning, in the Philadelphia trust company.

While the commission was thus engaged in the performance of its duties, and when it had nearly completed the selection of election officers, notice was received from James E. Gowen, Esq., of his intention to apply to the Supreme Court at *nisi prius* to enjoin and restrain the commissioners from further proceeding in the performance of their duties, and on the following day application was made to Justice Sharswood for that purpose, who declined to hear the application at that time, and fixed Tuesday, December 2d, for a hearing before Judge Gordon and a full bench. In the meantime bills in equity had been filed by Gibson, Peacock and others, against the city commissioners and the commissioners of election; also, by John H. Don-

nally, claiming to be an election officer of the Sixth division of the Fifth ward, asking the court to enjoin this body from appointing officers to conduct the election, from making a canvass and from attempting to interfere with or conduct the election then about to be held, and after a hearing, the court, on December 5th, granted the injunction prayed for in each case.

In the meantime, the commissioners had proceeded in the performance of their duties, and had selected all the officers to hold the election and to make the registry. Six hundred and fourteen of the canvassers had been qualified and entered upon their work. Of this number five hundred and seventeen had completed the canvass, and subsequently returned their lists, and ninety-seven have as yet made no return.

As soon as the commissioners were informed of the decree of the court, they took steps to comply with the same, by suspending all further appointments, by putting a stop to the canvass in divisions where it had not yet begun, and by discharging the messengers and clerks employed by the commission, retaining only the secretary, Mr. Corson, and the assistant secretary, Mr. Winship, whose services were needed to close the business of the commission. At the request of the city commissioners the tickets and all unused books and forms were returned to them, and the completed canvassers' lists were passed over to the Executive Committee of the Convention. The building occupied by the commission was vacated by them on December 13th, and the personal property sold or returned to the owners.

The accounts of the treasurer show an unexpended balance in his hands of two thousand three hundred and sixty-seven dollars, which he holds subject to the order of the Convention.

The commissioners deem it their duty to call the attention of the Convention to the propriety and necessity of making an appropriation to pay the canvassers appointed by the commission, for the time and labor expended by them in the registration of voters. The commission, after consultation with the city commissioners as to the time employed and the work necessary to be performed for this purpose, had early fixed the sum of fifteen dollars as a reasonable and proper compensation to each canvasser, and councils

had made an appropriation based upon that estimate. The decision of the Supreme Court having forbidden the city commissioners to pay any moneys of the city for the purposes of this commission, it is but just that the Convention, on the faith of whose ordinance the canvassers undertook the work, should make provision for their payment. A large proportion of them are poor men, who have given several days of their time to the work, and have performed very unpleasant and responsible duties with zeal and efficiency. Should the Convention make an appropriation, it might be proper for them to appoint some person as disbursing officer, by whom the payment should be made on the order or certificate of the late secretaries of the commission, Messrs. Robert R. Corson and Richard C. Winship, who have personal knowledge of the appointees, and who will be able to distinguish between those who have completed their work and others.

The commissioners of election would respectfully suggest that your body adopt the amount fixed by them, viz: Fifteen dollars as compensation to all canvassers who finished the canvass and returned their books, and that some compensation be paid to such canvassers as were sworn in, but failed by reason of the injunction to complete their work and return their books. Many of these men lost much of their time, for which the sum of ten dollars would not be, in our judgment, an unreasonable compensation. Should these figures be adopted by your honorable body, there will need to be appropriated the sum of eight thousand seven hundred and twenty-five dollars, together with such additional amount as you may award to your disbursing officer, and to the clerks for their future services in the matter, as follows:

For pay of 517 canvassers, at \$15 each	\$7,755
For pay of 97 canvassers, at \$10 each	970
	<u>8,725</u>

We have instructed the secretary to hand to the Executive Committee of your body the minute book, papers and vouchers of the commission.

EDWIN H. FITLER,
EDWARD BROWNING,
JOHN P. VERREE,
HENRY S. HAGERT,
JNO. O. JAMES,
Commissioners.

The resolution reported by the Executive Committee was read twice and agreed to.

SETTLEMENT OF ACCOUNTS.

Mr. HAY submitted the following report, which was read:

The Committee on Accounts and Expenditures of the Convention respectfully reports that the following claims and accounts have been carefully examined:

1. D. F. Murphy, Official Reporter, for all services to and including this 27th day of December, 1873.....	\$2,000 00
2. Gillin & Nagle, for printing done for the Convention in Philadelphia	954 25
3. Samuel Crowther, for work on lamps	3 00
4. Consumers' Ice Co., for ice furnished.....	13 20
5. Knickerbocker Ice Co., for ice furnished from Jan. 9th to Feb. 15th, 1873.....	125 52
6. Philadelphia Evening Telegraph, for publishing notice of funeral of Mr. Meredith..	1 80
7. Thos. S. Stone, repairs to locks, keys, &c., for desks of members	16 50
8. Philadelphia Gas Works, for gas used in the Hall from Oct. 25th to Nov. 25th, 1873..	65 09
9. Wm. F. Murphy's Sons, for stationery, inkstands, &c., furnished for use of the Convention.....	136 85
10. James Craig, for services as janitor on days when Convention was not in session, by order Chief Clerk	129 00
11. Joseph Ebersole, for services as janitor on days when Convention was not in session, by order Chief Clerk and House Committee....	114 00
Together amounting to.....	<u>3,539 21</u>

That the same appear to be for proper expenses of the Convention, and should therefore be paid.

The following resolutions are accordingly reported for the action of the Convention:

Resolved, That the foregoing accounts are hereby approved, and that warrants be drawn in favor of D. F. Murphy, Official Reporter, for the sum of two thousand dollars, in full payment for all ser-

vices up to and including the reporting of this day's proceedings; and in favor of Gillin & Nagle for the sum of nine hundred and fifty-four dollars and twenty-five cents, in payment of their account.

Resolved, That a warrant for the sum of six hundred and four dollars and ninety-six cents be drawn in favor of the Chief Clerk, for the payment of the remaining accounts mentioned in the foregoing report.

The resolutions were read the second time and considered.

Mr. TEMPLE. I move to amend so much of the first resolution as refers to the amount due Gillin & Nagle, by striking out \$954 25 and inserting \$1,414 25.

I desire only to say that this will pay Messrs. Gillin & Nagle for the additional copies of the Constitution which they printed on parchment paper. And I understand that this claim is not objected to by the chairman of the Committee on Accounts. The committee of the Convention which issued the address to the people of the State could not have performed their labors without the assistance of this print of the Constitution. This firm printed one hundred and fifty extra copies of the Constitution, *fac similes* of the original in the office of the Secretary of the Commonwealth, and one has been given to each member.

MANY DELEGATES. I have not had mine.

Mr. HAY. A copy is ready to be furnished to each member.

Mr. CORSON. Where are the copies?

Mr. TEMPLE. In the post office.

Mr. HAY. These copies are exceedingly well printed, and I have no reason personally to doubt but that the charge is correct. I do not desire to express any opinion on that subject, however. I would have included this amount in the report just made if it had not been for the action of the Convention immediately preceding the making of the report. These printers should certainly be paid for the official copy of the Constitution which they furnished, and it seems to me they might as well be paid for the others also.

Mr. DARLINGTON. Undoubtedly they ought to be paid for what the Convention ordered. That I have not heard a word of objection to. If gentlemen will only point out to me what that is, I will vote to pay it, but if we go on the principle that the Legislature have usually gone upon, to pay everybody at the end of the session that has any kind of a claim, then here is

our friend, Mr. West, who, it appears, did labor for the gentleman who volunteered their services, and properly before the court, and has a bill of five hundred dollars or six hundred dollars, and he ought to be paid as much as these parties.

Mr. TEMPLE. I rise to a point of order that the gentleman's remarks are not germane to the subject under consideration.

Mr. DARLINGTON. Precisely germane. I am opposed to making fish of one and flesh of another. If Mr. Nagle has done work upon the faith of the Convention paying him, and if Mr. West has done service upon the faith of the Convention paying him, I go for paying both or neither.

Mr. ARMSTRONG. Just in that connection, I should like to say one word on this general subject in behalf of Mr. West, whose bill is not now before the Convention, but it can be brought up by an amendment.

When the argument in the Supreme Court was precipitated upon the Convention, something was said about the propriety of having that argument reported. The Executive Committee did not feel at liberty to authorize it, and they did not authorize it as a committee; neither did any member of the committee feel justified in authorizing it to be done; nevertheless it was generally believed in the committee that a report of the debate, involving the rights and powers of this entire Convention, would be a document of great value, and that the discussion of the question upon either side ought not to be lost. Mr. West, I suppose, undertook that reporting at his own risk, but with a natural supposition that the Convention would give him reasonable compensation. I believe that ought to be done. And just in that connection let me make this further remark: The counsel that were concerned in that case neither expect nor desire compensation—not one dollar. They gave their services gratuitously upon that side of the question. Mr. West reported the entire proceeding. I am not here to say whether his bill is too much or too little. He states to me that at the rates paid for the reporting of the Convention debates, the charge would amount to more than his bill. But it would seem to me not unreasonable that he should receive some compensation. I do not know whether it should be \$400 or \$300 or \$500; but let it be something that will show that this Convention appreci-

ates his work in that regard. A resolution was offered by Governor Curtin to allow \$400, and I suppose that was correct and offered upon reasonable consideration.

Mr. CURTIN. I was told that that was about the usual rate.

Mr. CALVIN. The argument of that case by the counsel—there were some three or four of them engaged in it—was done gratuitously. If the Convention or the friends of the Convention had found it necessary to employ counsel to argue the case, it would have cost quite a large sum, and I do not imagine it would have been argued any better. I think, as the only charge resulting from that important occasion was the charge of the reporter, it ought to be paid.

Mr. DARLINGTON. I ask for the reading of the amendment that was offered by the gentleman from Philadelphia (Mr. Temple.)

The PRESIDENT. The amendment pending will be read.

The CLERK. It is proposed to amend the item as to Gillin & Nagle so as to make it one thousand four hundred and fourteen dollars and twenty-five cents.

Mr. DARLINGTON. I move further to amend by adding "and to R. A. West, four hundred dollars."

The PRESIDENT. The question is on the amendment to the amendment.

Mr. HARRY WHITE. Do I understand the delegate from Philadelphia (Mr. Temple) as offering an amendment to the bill of Gillin & Nagle of four hundred dollars?

Mr. TEMPLE. Four hundred and sixty dollars.

Mr. HARRY WHITE. Now I understand the delegate from Chester as offering an amendment of four hundred dollars to pay Mr. West. That is the pending question. May I ask what the chairman of the Committee on Accounts and Expenditures, in whom I have great confidence, says on the amendment offered by the delegate from Philadelphia (Mr. Temple.)

Mr. HAY. I have made a statement. I do not think it necessary for me to say anything further. The matter is in the hands of the Convention.

Mr. HARRY WHITE. What does the delegate say as to the merits of the claim?

Mr. DARLINGTON. He said he thought it might as well be paid.

Mr. JOSEPH BAILY. Will the gentleman from Indiana allow me to make a statement? The Committee on Accounts had this printing bill of Gillin & Nagle before them this evening and unani- mously resolved to have it paid. I do not know why our chairman did not so report. The committee unanimously resolved to have it paid.

Mr. HAY. After that statement I desire to explain that it is true that the bill was before the Committee on Accounts, and it is also true that the committee had prepared its report directing that bill to be paid, but it is further true that immediately after that report was prepared and before it was presented to this body, a vote of the House was taken by which it was determined that this bill should not be paid. That was the substantial effect of the vote. A resolution was offered authorizing and directing them to supply these Constitutions; and the vote resulted in the negative. In accordance with that vote of the House, which I took to be instructions to the committee, that amount was deducted from their bill. I think it was the only proper course for me as chairman of the committee on Accounts to take, obeying the instructions of the House. So far as the bill itself is concerned, this firm was certainly authorized to print the official copy of the Constitution. It was very well done, and I do not know how now we can avoid the payment.

Mr. HARRY WHITE. Now, I ask as to the amendment offered for the payment to Mr. West. On that subject I will state just what I know and just what I think, and I express the views of my friends around me. I have been informed, and I understand and believe, that the person who did the work of reporting that argument was Mr. Gilbert, the person who was acting as the clerk of the Executive Committee. I understand the burden of the labor of that reporting was done by him, and, if so, if anybody is to be paid, I want to pay Mr. Gilbert. Furthermore, I to-day subscribed and paid one dollar, as I presume other delegates did and were glad to do, for a copy of the report of the proceedings in the Supreme Court on that subject. I do not know for whose benefit this was; I would gladly pay one dollar for another copy; but I presume it was for the benefit of the person who got it up; and, if that is so, I do not see the propriety of voting any gratu-

ity by this Convention. As far as my information goes thus far, inasmuch as the professional services of eminent members of this Convention were given in the argument of that case, I am in favor of gratuitous service all around. Unless there is some legal liability or some moral liability which satisfies me that the Commonwealth is responsible to Mr. West, I shall certainly vote against this amendment.

Mr. NEWLIN. Mr. President: As I was on the Executive Committee, I desire to say a word in regard to this proposition to pay Mr. West four hundred dollars. I am in favor of even-handed justice all around, and I have to say that Mr. West was not employed by the Executive Committee, nor had any member of the Executive Committee authority to employ him for the committee to report those arguments in court. When the case came on, I notified Mr. Gilbert, who was the stenographer and clerk of the committee, to be there if his services were wanted to take down the arguments in short-hand, and he did take down in short-hand the speeches of counsel who represented the commissioners, that is the Convention side; the others of course he did not bother himself about; and what Mr. West did was at his own risk, and he could do what he pleased about it. King & Baird of Philadelphia, printers, have published in a pamphlet form the result of this trial. Mr. West reported it for them, I presume, and I have no doubt that they paid him.

Now the Convention will also bear in mind that Mr. Gilbert was paid five hundred dollars for his services as clerk and stenographer for six weeks to the Executive Committee, and he was employed day and night and he went to public meetings and reported in short-hand speeches in favor of the Constitution which were inserted in the papers, and did an immense amount of work. Now I have no objection to Mr. West being paid; but if he is to be paid four hundred dollars, Mr. Gilbert is entitled to at least one thousand dollars, and I shall move to have him paid that amount if the House agrees to pay Mr. West four hundred dollars. He is certainly entitled to it at that rate quite as much as Mr. West and more.

Mr. COCHRAN. The whole difficulty in this matter arises from this one fact, that we are asked here to pay for things which people did without authority. If our ex-

penses had been confined to those which were simply done under authority, we should have had no trouble with questions of this character; but it seems that persons have undertaken to do things, and then after they were done they come and claim of this Convention to pay them when they had no warrant to do them and no reason that I can see to expect that the Convention would pay for them.

Now, sir, with regard to this proposition about the reporting of that trial—

Mr. DARLINGTON. If the gentleman will allow me I will withdraw that amendment after the explanation I have heard.

Mr. COCHRAN. Then in regard to the other —

Mr. BIDDLE. I want to speak about that before it is withdrawn.

Mr. COCHRAN. Now in regard to the claim of Gillin & Nagle, I confess that I had a vague impression on my mind that a resolution was passed before the Convention adjourned in Philadelphia to have copies of the Constitution printed on parchment paper and one supplied to each member. It seems, however, from what has occurred here, that my impression on that subject was erroneous; but certainly if they have gone on and printed these parchment-paper copies of this Constitution without such a resolution of the Convention they have no claim on us to pay for them. If members of this Convention take them, they should pay for them themselves; but so far as the printing of the parchment copies is concerned that should be paid for by the Convention, and that is the only right way to settle this question, and I shall vote against every other proposition.

Mr. HUNSICKER. I am sorry gentlemen have embarrassed the report of the committee with these amendments. I would prefer to consider one thing at a time. The report of the committee contains simply that which is legal and proper and which was ordered by this body. Now there has been an amendment interjected for the purpose of paying extra compensation to a printer for work never ordered by this body and for work that is perfectly useless for all purposes. Here is a large roll of paper which is said to contain the Constitution printed upon sheep-skin. These, the representatives of the people are asked to pay for out of the public treasury so that they

may have these as curiosities. Why let every member of this Convention that wants such a bundle of paper as that, go to the printer and buy it and pay for it. It seems to me to be outrageous to make this assault on the public treasury for the mere gratification of a taste which is utterly useless and without purpose. I therefore trust this Convention will not be led away from its correct path but will vote the proposition down.

Mr. BARTHOLOMEW. Mr. President: I rise to a question of order. I do not understand how this question can be properly raised at this time or in this way. First, the proposition to pay for printing the *fac simile* copies of the Constitution as filed in the office of the Secretary of the Commonwealth, was voted on and voted down, and the proposition to pay Mr. West was voted upon and voted down. Now I take it that unless there shall be a motion made to reconsider the votes taken upon either one of those resolutions, those questions will not be before the House and cannot be.

Mr. TEMPLE. Mr. President: There was no such resolution offered. The resolution offered by myself requested Gillin & Nagle to furnish these copies.

Mr. BARTHOLOMEW. What was your proposition?

Mr. TEMPLE. To request Gillin & Nagle to furnish these copies.

Mr. BARTHOLOMEW. Will the Clerk read the resolution offered by Mr. Temple in relation to that question?

Mr. TEMPLE. Let that resolution be read. It speaks for itself.

The CLERK read the resolution offered this evening by Mr. Temple, as follows:

Resolved, That Messrs. Gillin & Nagle of Philadelphia, be instructed to furnish to the Convention, for the use of the members, one hundred and fifty *fac simile* copies of the Constitution, (the copy deposited in the office of the Secretary of the Commonwealth,) the cost of the same not to exceed four hundred and sixty dollars.

Mr. BARTHOLOMEW. Now what is the report of the Committee on Accounts?

The CLERK. In favor of Gillin & Nagle for nine hundred and fifty-four dollars and twenty-five cents. Mr. Temple's amendment is to strike out "nine hundred and fifty-four dollars and twenty-five cents" and insert "one thousand four hundred and fourteen dollars and twenty-five cents."

Mr. BARTHOLOMEW. To pay for the

very thing which was voted down. I say it includes the very subject matter voted on before and therefore it is out of order.

The PRESIDENT. The Chair is of opinion that it is not out of order. The resolution was before the Convention and was open for amendment. If the Convention thinks proper to reverse its former vote, it can do so.

Mr. BIDDLE. Mr. President: I feel reluctant to say anything about the amendment to the amendment—

The PRESIDENT. The amendment to the amendment is withdrawn.

Mr. BIDDLE. Then I hope the gentleman from Chester will not withdraw it until I have said a few words about it.

Mr. DARLINGTON. It is withdrawn, but the gentleman may renew it.

Mr. TEMPLE. There is an amendment before the House now.

Mr. BIDDLE. For reasons which I need not explain I do not think proper to renew it.

Mr. DARLINGTON. I renew my amendment to the amendment for the purpose of hearing the gentleman from Philadelphia.

Mr. BIDDLE. Mr. President: I feel reluctant to say anything about the amendment to the amendment; but as an act of simple justice to the person named in that amendment, I wish to make a statement, and I preface the statement that I am about to make, by saying that I believe neither the Executive Committee, nor, as I am very sure, the counsel in the case employed Mr. West. I start with that statement, which I do not think will be contradicted; but when I hear it asserted here that Mr. West did not make the phonographic report of the arguments contained in the pamphlet which has been alluded to, I think injustice is done to that person. I know that he was there during the whole proceedings; I saw him, during the time that I was there, engaged actively in taking down the remarks of counsel; and I assert positively that the manuscript of my own remarks, as well as those of Mr. Buckalew, was handed to me by him in a handwriting which I supposed to be his. I have, therefore, every reason to believe that the whole report as printed was made by him.

I have nothing to say about whether he should be paid or not, beyond this: Undoubtedly he was not employed by the counsel, nor, as I hear stated, by the Ex-

ective Committee, but he did the work well. I have never seen in the whole course of my experience a better report of judicial proceedings. Whether the matter has any value or not, it is not for me to say; perhaps it has none at all; but if on the principle of equitable adjustment of such a claim as this the Convention is disposed to act, I think something ought to be done.

It is very true that a published report has been made, for which a price is charged, which I suppose certain members have either ordered or already obtained. That is not the question. Mr. West certainly rendered most efficient service, and if the arguments were worth anything they are presented in a very valuable shape. This much I think it justice to say. I do not want to speak any further about it, but I do not think the amendment ought to be voted down under a misimpression in regard to the labors of that person.

Mr. LITTLETON. I desire to ask the gentleman from Philadelphia (Mr. Biddle) a question.

Mr. BIDDLE. I shall be very happy to answer any question I can.

Mr. LITTLETON. It has been stated here that Mr. West was employed by the firm of King & Baird, publishers.

Mr. BIDDLE. I know nothing about it. He was not employed by the counsel, I believe; certainly not by the Executive Committee. The counsel incurred no expense of any kind.

Mr. HARRY WHITE. Mr. President: What disturbs me is one remark which the gentleman has made, which is in corroboration of the information I received, that Mr. Gilbert did attend and was present at the argument of this case before the Supreme Court, and did under the instructions of the Executive Committee of this body take a phonographic report of the proceedings, and, to aid the labors of this Convention, did furnish Mr. Bucklew's argument—I believe it was about two columns—or Mr. Biddle's, I do not know which, and Mr. Armstrong's argument, which was two and a half columns, or thereabouts, and the other arguments in the case, to the press of Philadelphia the next day, and did have them printed, and as his work they were circulated; and that work was done in pursuance of the order of an authorized committee of this body under a contract with them. I cannot go over Mr. Gilbert, who did this

work, thus unquestionably did it, and pay in preference to him a person who was a volunteer in this matter, if the report was made at all. I think if there is any legal claim, Mr. Gilbert has it, and I cannot vote for an appropriation, so understanding the facts, to any other person.

Mr. DARLINGTON. To be consistent I again withdraw the amendment to the amendment.

The PRESIDENT. The question recurs on the amendment of the gentleman from Philadelphia (Mr. Temple) to increase the item for Gillin & Nagle.

The amendment was rejected.

The PRESIDENT. The question recurs on the resolutions.

Mr. HAY. I hope that the resolutions attached to the report of the Committee on Accounts may now receive action by the Convention, and that any other matters of the kind or of a similar kind will be presented in separate resolutions and acted upon on their merits. ["Yes." "Yes."]

The PRESIDENT. The question is on the resolutions reported by the committee.

The first and second resolutions were severally agreed to.

UNSETTLED ACCOUNTS.

Mr. HUNTSICKER. I offer the following resolution, which was read twice and considered:

Resolved, That all the unsettled accounts of this Convention be referred to the Auditor General and State Treasurer for settlement and payment out of any appropriations made or to be made for that purpose.

Mr. NEWLIN. I ask the gentleman to withdraw that for a moment for this reason: there are three bills here which were approved by the Committee on Printing about the time we took our recess; one of them is for painting the portrait of Mr. Meredith, which went into the Memorial; another is for the Meredith Memorial itself and for expressing it; and the other is for the balance of a paper bill which had been approved by the committee, but paid only in part. The paper was all furnished. These bills are approved and I sent them to the Committee on Accounts but they were received too late this afternoon. I was busy all the morning in other committees. I move now that they be paid, each bill separately.

Mr. NEWLIN presented the following bills, viz:

PHILADELPHIA, Oct. 31, 1873.

CONSTITUTIONAL CONVENTION TO WILLIAM W. HARDING, DR.	
To 1,500 Memorials for Constitutional Convention (W. M. Meredith).....	\$547 00
To express charges on 108 bundles (Adams).....	56 80
To express charges on 21 bundles (Local).....	4 20
To wrapping and doing up 108 bundles.....	10 80
To wrapping and doing up 21 bundles.....	2 10
	<hr/>
	620 90
	<hr/>

PHILADELPHIA, Dec. 25, 1873.

CONSTITUTIONAL CONVENTION TO WILLIAM W. HARDING, DR.	
Oct. 10. 107 rea. 28x40=50, 5,350 ^b	
@ 15.....	\$802 50
“ 23. 100 “ 28x40=50, 5,000 ^b	
@ 15.....	750 00
“ 27. 93 “ 28x40=50, 5,650 ^b	
@ 15.....	697 50
	<hr/>
	2,250 00
	<hr/>
CR.	
Nov. 4. By cash.....	1,500 00
	<hr/>
Balance due.....	750 00
	<hr/>

CONSTITUTIONAL CONVENTION TO E. BARRINGTON, DR.

Dec. 26. To 1,500 copies of portrait of Wm. M. Meredith..... \$90 00

Mr. HUNSICKER If my resolution does not lose its place as being on second reading, I will withdraw it for the present for the purpose of allowing these bills to be presented, but that is all.

The PRESIDENT. It is moved to postpone the further consideration of the resolution of the gentleman from Montgomery for the present.

The motion was agreed to.

Mr. NEWLIN. Now, I move that a warrant be drawn in favor of the persons named in the bills which I send to the desk, for the amounts thereof, and the Clerk will please read them.

The CLERK. There are two bills of W. W. Harding, one for \$620 90; and the other for a balance of \$750 due on a former account, amounting to \$1,370 90.

The other is a bill of E. Barrington for fifteen hundred copies of the portrait of William M. Meredith, \$90.

Mr. H. G. SMITH. I wish to ask one

question of the chairman of the Committee on Printing. There is a balance due, as I understand him, for printing-paper. Do I understand that there was a resolution passed by the Convention directing a certain amount due Mr. Harding to be paid for paper which it was estimated would be necessary for the further completion of the contract with the State Printer, and that an amount of paper was furnished which would exceed that contract? I want to know whether the bill put in now is for furnishing an amount in excess of the amount then stated to be necessary for fulfilling the contract with this Convention. If it is for that amount of paper which was destroyed in the burning of the printing office, I will not vote to pay it.

Mr. NEWLIN. I will answer the inquiry. The paper all through the printing of the Debates has been furnished from time to time on the requisition of the State Printer, three hundred or four hundred reams at a time. The last three hundred reams were furnished several weeks before the Convention adjourned. At the time the last bill of Mr. Harding for paper was sent to the committee, the bill was passed upon some time before the Convention adjourned, and some one suggested that perhaps all that paper could not be used. The State Printer said it would require all of that paper, and more too, to print even what had been the debates up to that time. The committee then, in order to avoid any question, reported in favor of paying two-thirds of the bill, and this is for the balance, and that balance would not have been enough to print anything like the balance of debates up to the time of adjournment. The paper was furnished and in the hands of the State Printer under his contract to do this printing. I do not know whether any of it was burned or not; but certainly it was not near enough to finish the printing, and if it has been burned, that is nothing to Mr. Harding. It was bought by us and furnished to our Printer. I cannot imagine why the gentleman from Lancaster should object to the bill. It is certainly a just bill, and it ought to have been paid long ago, not kept waiting until now.

Mr. H. G. SMITH. There is just this objection to it; I understood at the time the resolution was passed that the printing would not require the full amount, and if the full amount was not required up

to that time, then we are not bound to pay for anything except what we ordered. That is the whole of it. If the entire amount was required and it was properly ordered by the Convention, we are bound for it; if it was not required or not properly ordered, we are not bound for it, and for my part I will not vote for it.

Mr. NEWLIN. In answer to the gentleman I will state that at the time the bill was approved as to two-thirds, two-thirds of the paper had actually been used and much more debate had taken place than would require the balance of this paper twice over to be used.

Mr. BIDDLE. I wish to ask the gentleman a question. Do I understand that the paper for which these two bills, amounting to some \$1,300, are furnished, was actually placed in the State Printer's hands on a proper requisition?

Mr. NEWLIN. Certainly it was, and I will state further that the amount is not \$1,300. That includes the Meredith Memorial, for which Mr. Harding had a contract, which he printed according to the terms of his contract and for which he has never been paid.

Mr. HAY. Before the chairman of the Committee on Printing takes his seat, I desire to inquire, not for the purpose of affecting the vote on this resolution, but for the information of the House and my own information, whether or not he is aware that a large amount of the paper furnished by Mr. Harding to the State Printer under his contract was used by the Printer of the Convention for his own purposes and not upon work of this Convention?

Mr. NEWLIN. That is something I never heard of before. The requisitions for printing the Debates were for an amount that this would not come up to. If the Printer used any of that paper for another purpose, he must supply it from some other source to make up this quantity. I do not know what the chairman of the Committee on Accounts means. I never heard of such a thing before. Mr. Harding furnished this paper and is entitled to be paid for it.

Mr. TEMPLE. I think this account ought to pass through the hands of the Committee on Accounts. The vote of the Convention on the account of Gillin & Nagle settled that if it settled anything.

Mr. NEWLIN. It did not reach them in time.

Mr. TEMPLE. Neither did the other bill reach their hands in time. There is no reason why we should make fish of one and flesh of another. I do not know anything about the suggestion of the gentleman from Allegheny; but I say there is no reason why this bill should be passed out of the ordinary course of procedure. Why should Mr. Harding's bill be presented here by the chairman of the Committee on Printing and passed by this Convention and adopted by it? There is no good reason for it. Let it pass through the hands of the Committee on Accounts.

Mr. NEWLIN. If the gentleman had taken the trouble to listen, he would know why it had not passed through the Committee on Accounts.

Mr. TEMPLE. I have been listening.

Mr. HAY. Mr. President: The passage of such bills as this through the Committee on Accounts is a matter of course. The contract of Mr. Harding with the Convention was to furnish paper in such quantities as might be required by the Convention or its Committee on Printing. If the Committee on Printing certify that they have ordered a certain quantity of paper to be furnished to the Printer, that is conclusive upon this body. Mr. Harding furnishes paper upon their order. He is authorized by his contract to do that, and his bills must be paid by the State.

Mr. ELLIS. I desire to state that I am informed by the Printer of the Convention that a numerical estimate of the paper used in printing will show that none of the paper furnished by Mr. Harding has been otherwise used than for the purposes of the Convention.

Mr. HAY. I desire to state that I was myself personally informed by the Printer to the Convention, that the fact was, that a considerable amount of this paper had been used in printing the additional edition of the Debates of this Convention which he printed for his personal profit and private sale, and that he expected to account for that in his final settlement.

The PRESIDENT. The question is on the adoption of the resolution.

The resolution was adopted, yeas thirty-eight, noes not counted.

DISTRIBUTION OF DEBATES.

Mr. CURTIN. I desire to make an inquiry, through the Chair, of the chairman of the Committee on Printing; and that is, whether any arrangement has been made to furnish copies of the De-

bates of this Convention and the Journal to the families of the members who died during their term of service.

Mr. NEWLIN. I furnished to the State Printer a resolution adopted by the Committee on Printing in one or two cases—I do not know but that it was a general resolution to apply to all cases—to divide the Debates between the family of a deceased member and his successor. What has been done in regard to that in all cases, I do not know, but I am told that two of the successors of former members have not received their Debates. Why that is, I am not able to say. One of them was the gentleman from Philadelphia who came in late, (Mr. M'Michael.) I believe he has got none at all; but there was a general resolution of the Committee on Printing to divide the books between the family of the deceased member and the incoming successor.

Mr. CURTIN. I make the inquiry, because the family of a member of the Convention who lived in the same village that I do, desired copies of the Debates, and I made inquiry on the subject, and was informed that no arrangement had been made even to furnish a single copy.

Mr. NEWLIN. That arrangement was made at the time I refer to.

Mr. CURTIN. Certainly we ought to furnish copies of the Debates to the representatives of members of this Convention who died during their service here.

Mr. LAMBERTON. I should like to ask the chairman of the Committee on Printing what disposition was made with regard to furnishing copies of the Debates to the State Library. The Librarian was in here to-day making inquiry on the subject.

Mr. NEWLIN. In answer to this general catechism, I have to say that the State Library was to receive all of the surplus, but "circumstances over which we had no control" disposed of the surplus. I suppose the gentleman is familiar with the burning of the State Printing establishment. That is what became of the surplus.

UNSETTLED ACCOUNTS.

Mr. HUNSICKER. Now I call up my resolution.

The Convention resumed, on second reading, the consideration of the following resolution:

Resolved, That all the unsettled accounts of this Convention be referred to the Auditor General and State Treasurer

for settlement and payment out of any appropriations made or to be made for that purpose.

Mr. LITTLETON. I desire to move as an amendment: "*Provided*, That they shall be first approved by the chairman of the Committee on Accounts of this Convention."

The PRESIDENT. The question is on the amendment.

Mr. STANTON. The moment we adjourn we shall cease to have a chairman of the Committee on Accounts.

Mr. LITTLETON. I did not intend to create any excitement by offering this amendment, but I did desire to prevent an indiscriminate raid on the public treasury, and a system of collecting bills for the next ten years perhaps. Now I think in giving power to officers of the State to audit these accounts, and they will be coming in for a long time, we should have some control over them exercised by this Convention or its representative officer.

Mr. BUCKALEW. For such outlays as the payment for paper furnished to the Public Printer under the resolution we have already adopted, there ought to be some authority of settlement, but I do not care to allow these officers to settle anything which they may call an account against the Convention which may be presented. I therefore move to amend the resolution by saying that these officers shall have power to settle accounts "for items or outlays authorized by the Convention."

The PRESIDENT. That will properly come as an amendment to the original resolution. The pending question is on the amendment of the delegate from the city (Mr. Littleton.)

Mr. HUNSICKER. I withdraw my resolution. I have a right to do that I suppose.

The PRESIDENT. If there be no objection, the resolution will be regarded as withdrawn.

J. I. GILBERT AND R. A. WEST.

Mr. PATTON. I offer the following resolution:

Resolved, That a warrant for two hundred dollars be drawn in favor of Joseph I. Gilbert, and a warrant for a like amount in favor of R. A. West, for reporting argument in Supreme Court in the hearing of the application for an injunction in restraining the Convention Commissioners.

The Convention refused to order the resolution to a second reading, there being

twenty-five ayes less than a majority of a quorum.

PROPOSED ADJOURNMENT.

Mr. BARTHOLOMEW. I now move that this Convention adjourn *sine die*.

SEVERAL DELEGATES. Not yet.

Mr. LILLY. There are several things to do yet.

Mr. BARTHOLOMEW. I withdraw my motion.

R. A. WEST.

Mr. J. N. PURVIANCE. I offer the following resolution:

Resolved, That the sum of two hundred dollars be allowed to R. A. West in full for his services in reporting the proceedings in the recent injunction case in the Supreme Court, and that a warrant be drawn on the State Treasurer for payment of the same.

The resolution was ordered to a second reading, and was read the second time.

Mr. DABLINGTON. I now move to amend by adding also the name of Mr. Gilbert for two hundred dollars.

The PRESIDENT. The amendment is before the Convention.

Mr. J. PRICE WETHERILL. I desire to say, as one of the Executive Committee, that Mr. Gilbert does not ask, neither would the two hundred dollars be due him. We agreed to pay Mr. Gilbert three hundred dollars for his entire services, and we advanced it two hundred dollars to meet this very case.

Mr. DABLINGTON. I withdraw the amendment.

Mr. NEWLIN. I renew it, and I desire to state that Mr. Gilbert was employed at three hundred dollars as a clerk, and though he was stenographically to take down answers to letters it was never contemplated that he should be sent to public meetings every night and write out long speeches for the newspapers, and when he was first employed in that capacity he was given to understand that he would be compensated in addition for that service. Therefore the five hundred dollars is not a raise at all.

Mr. DUNNING. Did not the newspapers pay him?

Mr. NEWLIN. No.

Mr. J. PRICE WETHERILL. I desire to give what little information I have on this subject to the Convention. Mr. Gilbert did a certain amount of reporting and presented his bill for reporting, and that bill was paid, not by this Convention, not

by its money, but by money raised outside of it, and the bill was very much less than two hundred dollars; and for that reason, as the bill was a very moderate one, only forty dollars, and inasmuch as Mr. Gilbert had rendered us useful and very efficient service, the committee deemed it right to give him five hundred dollars. It is just what his services are worth, and it is all that he asks for, his services. He does not come to this Convention demanding any more than the committee saw fit to give him.

Mr. J. N. PURVIANCE. Was he paid that?

Mr. J. PRICE WETHERILL. He was. Now, in regard to Mr. West's services, the Executive Committee know nothing whatever about them. He certainly did the work, and the members of this Convention know exactly what the work is, and perhaps know what it is worth. For one, I object to any one, no matter what the nature of the claim may be, coming in with a bill the amount of which he fixes himself, and we see the peculiar condition of things at present. First, we have a bill from Mr. West for five hundred dollars; then a bill from Mr. West for four hundred dollars, and now it is reduced to two hundred dollars. My own opinion would be that one hundred and fifty dollars perhaps would be all that the service was worth; but inasmuch as some members have seen fit to name two hundred dollars, I have no objection to voting for the two hundred dollars; but I do object to paying any amount, large or small, to any other of the phonographers who were employed in that case.

Mr. HUNSICKER. It would be a very fitting end to this Convention, just before the new Constitution goes into effect, to pay for services which it never ordered, for services that were never legally rendered to this Convention or by the authority of any of its committees. I have no question to make against the integrity of this reporter or of this claim. If the claim is a just one, if he earned it, let it be made up to him by voluntary contributions of the members; but do not let the Constitutional Convention of Pennsylvania, on the very last day of its session, give the practical lie to one of the features contained in the new Constitution which we have put there to guard the public treasury against the acts of the Legislature. For these reasons I shall vote against this proposition.

Mr. EDWARDS. I move the postponement of this whole question.

The PRESIDENT. Indefinitely?

Mr. EDWARDS. Yes, sir.

The PRESIDENT. It is moved to postpone indefinitely the subject under consideration.

The motion was agreed to.

THANKS TO EXECUTIVE COMMITTEE.

Mr. STANTON. I offer the following resolution:

Resolved, That the thanks of the Convention are due, and are hereby tendered to the Executive Committee for their able and efficient management of the recent campaign which resulted so triumphantly in the success of the new Constitution.

The resolution was ordered to a second reading and read the second time.

Mr. TURRELL. I move to amend by inserting the names of the gentlemen who acted as counsel and argued so ably the question before the court, Mr. Armstrong, Mr. Biddle and Mr. Buckalew.

Mr. STANTON. I accept the amendment. I intended to insert those names, but, inadvertently, neglected to do so.

The PRESIDENT. The question is on the resolution as modified.

The resolution was unanimously adopted.

REPORT OF COMMITTEE ON REVISION.

Mr. BUCKALEW. In the absence of Mr. Knight, the chairman of the Committee on Revision and Adjustment, I desire to submit a report from that committee.

The CLERK proceeded to read the report, as follows:

That the committee, in pursuance of the order of the Convention, did immediately after the adjournment of the Convention on the 3d of November, prepare a statement and exposition of the changes contained in the new Constitution, which was duly signed by the President and attested by the Chief Clerk, and was published along with the new Constitution, in pamphlet form, for distribution by the Executive Committee of the Convention. That statement and exposition was as follows:—

Mr. BUCKALEW. I move to dispense with the reading of the remainder of the report, as it is the report of the committee signed by the President of the Convention and attested by the Clerk, and published to the people of the Commonwealth.

The PRESIDENT. The further reading will be dispensed with, if there be no objection.

Mr. BUCKALEW. It was necessary to make this report in order that the exposition should go into the published record of the Convention. I only make the report for that reason.

The report was ordered to lie on the table.

EXTRA COMPENSATION TO EMPLOYEES.

Mr. BAKER. I offer the following resolution:

Resolved, That the pay of the clerks and officers of this Convention be increased twenty-five per cent. in addition to the present pay, and that warrants be drawn for the same.

The Convention refused to order the resolution to a second reading.

FIRST BIENNIAL SESSION OF LEGISLATURE.

Mr. BUCKALEW. I offer the following resolution, and I ask the Convention to take it up so that I may explain it:

Resolved, That it is the sense of this Convention that the session of the General Assembly to be held in the year 1875 will properly be held to be the first regular biennial session under the new Constitution.

The resolution was ordered to a second reading and read the second time.

Mr. BUCKALEW. Mr. President: There are a number of corrections of this Constitution which, if I had my way, I would make, and make now, or at least propose them and submit them to the people at the election in February; but I suppose there is no general inclination among members of the Convention to undertake what may be supposed a sort of *post mortem* duty of this sort. I see no difficulty as regards our power, and I see great reason on grounds of propriety that these corrections to which I refer should be proposed in the regular way and accepted by the people at the February election. Among them would be one specifically providing that a session of the General Assembly shall be held in the winter of 1875 and that it shall be the first biennial session under the new Constitution.

Now, sir, if it be held that the session this winter is the first session under the Constitution, and the biennial sessions are to run from it, great inconvenience will come upon the people hereafter. For instance, Representatives and one-half of the Senators will be elected in the year

1876; and they will not meet until January 1878, in the last year of their term instead of the January immediately following their election which of course is what is intended. I know it may be argued, and I, for one, am disposed to give that construction to the Legislative article, that the first biennial session is to commence with the first session held by members elected under the Constitution; but as there is no authority to act upon this subject, as the courts cannot touch it, the Legislature this winter has no authority over it, the Governor cannot exercise jurisdiction over it, there may be great difficulty and doubt possibly with regard to the meeting of the Legislature in 1875, whether they are to meet or not. I take it for granted therefore that a resolution adopted by this body with unanimity, asserting that it will be in accordance with the spirit of our work that the computation shall commence with the session of 1875, will substantially settle and dispose of this matter, and it will be acquiesced in by the Legislature and the people.

While I am up, I consider it my duty to point to two or three things which will be discussed hereafter and which are imperfections in our work. There is a provision in the Judiciary article that the judges of the courts of common pleas, learned in the law, shall hold the courts of oyer and terminer and quarter sessions of the peace and the orphans' courts of this Commonwealth, the result of which is that in one-half or more of the counties of the Commonwealth, as I construe the section, the associate judges will be turned out of all the criminal courts and out of the orphans' court and will be confined to service in the court of common pleas where they are least needed and where their utility is most questioned and in regard to excluding them from which there is no inconsiderable amount of public opinion. I would change that by simply striking out the words "learned in the law."

Again, the new Constitution provides that the Governor can grant no pardon unless it be recommended by three high State officials. Two of these will not be inducted into office for a whole year, and unless a pretty strong construction be given by the Governor and his advisors to the new Constitution, it will follow that no pardon could be granted for a whole year. I suppose, from the necessity of the case, these officers will be jus-

tified in holding that the new Constitution does not go into force until 1875, in regard to the provisions concerning the granting of pardons by the Governor. In that way, possibly, the difficulty can be obviated, although I think we ought to do it ourselves.

The other question, which is more important, that is, this question of the commencement of the biennial sessions of the Legislature, is one in which I think the Convention would be justified in passing the resolution I have offered.

Mr. LITTLETON. What does the gentleman from Columbia think about the section providing for spring elections next February?

Mr. BUCKALEW. There will be an election in every county of the Commonwealth next February, under the plain provisions of the Constitution.

Mr. HARRY WHITE. I understand the resolution before the Convention is to define when the biennial session of the Legislature is to begin. To the spirit of that resolution I have no objection, and if we had the power at this moment, I would be exceedingly glad to correct what the delegate from Columbia terms the imperfections of our work. But the difficulty we encounter here is the want of power. Our masters, the people, have passed upon our work, and after the first of January it will be the Constitution of the Commonwealth. I therefore apprehend that any resolution we may pass as to when the first biennial session of the Legislature shall meet, will be of no avail whatever.

I do not think, however, that there is the doubt which the gentleman from Columbia thinks there is upon this question of biennial sessions. I read the first section of the article on the Legislature and I find: "The legislative power of this Commonwealth shall be vested in a General Assembly." I read in the second section, "members of the General Assembly shall be chosen at the general election every second year." I read in the fourth section, "the General Assembly shall meet at twelve o'clock noon, on the first Tuesday of January every second year." Then in the eighteenth section I discover:

"The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representa-

tive districts agreeably to the provisions of the two next preceding sections."

Then by turning to the third and fourth sections of the article on Schedule, I find provisions regulating the election of Senators in the years 1874 and 1875, and from all these sections it is plain that it is the duty of the Legislature at its next session to apportion the State into representative and senatorial districts in obedience to the directions of this Constitution. The next Legislature will assume that duty. They could not refuse to assume it if they desired to do so. The injunction in the eighteenth section is mandatory, and from it and the other sections relating to the meeting of the Legislature, the intention of the Convention is plain that biennial sessions of the Legislature should begin from the first meeting of a Legislature elected in pursuance of the provisions of this Constitution. That session would be upon the first Tuesday in January, 1875, and of course the next session would be upon the first Tuesday of January, 1877.

The Governor has, of course, power in the meantime to convene the Legislature in extraordinary session. So I think that there is likely to be no practical difficulty from these imperfections, and it seems to me that this resolution is entirely unnecessary. It might possibly be misconstrued and add to the doubt which we are told exists upon this subject. Therefore, I shall vote against the resolution.

The resolution was adopted.

DEATH OF MR. CRAIG.

Mr. BEEBE. Mr. President: I rise to announce to this Convention the death of my colleague, Hon. David Craig, which took place at his late residence in New Castle, Lawrence county, on the thirteenth of November last, during the recess of the Convention. I offer the following resolutions as expressive of the sentiment of the Convention in relation to the same:

Resolved, That we have heard with deep regret that during our adjournment the Hon. David Craig, of Lawrence county, a member of this Convention, highly esteemed for his ability and integrity and for the assiduity with which he discharged his duties, has, after a protracted and painful illness, passed from this to another state of existence.

Resolved, That we tender to his family our most sincere condolence in this, their deep affliction.

Resolved, That the Clerk of this Con-

vention cause a copy of these resolutions to be forwarded to the family of the deceased.

The resolutions were read the second time and considered.

Mr. BEEBE. Mr. President: I have but a few words to say in reference to the deceased as my entire acquaintance with him is limited to our brief intercourse in this Convention. Suffice it to say, sir, that our relations were of the most amicable nature and such as to command my highest respect and esteem. There are others here who are familiar with his history from boyhood, and I leave to them the just tribute his merits and memory deserve.

Mr. LAWRENCE. I do not rise, Mr. President, to make any extended remarks with reference to the virtues of my deceased colleague; but as he was born and educated in my own county, I desire to state very briefly some of the circumstances connected with his life. I have known him intimately since he was eighteen years of age. He was born in the western part of Washington county, on the 29th of February, 1824. He was the son of Hon. Walter Craig, who is still living in our county and who was a member of the House of Representatives of this State for five or six sessions between the years 1820 and 1830, and who afterward was a member of the Constitutional Convention of 1837-38, and also served in the Senate of the Commonwealth. With such great ability and with such fidelity did he discharge his public trusts that during the last forty-five or fifty years his life has wedded him to the people of our county where he still lives in the possession of his mental faculties.

Such a father was an example that the son wisely followed. David Craig was liberally educated at one of the colleges in our county, proved himself a ripe scholar, studied law with Thomas M. T. McKennan, long since deceased, and was admitted to the bar in our county. In 1849, when the new county of Lawrence was formed, there was an opening there for young men of talent and energy, and our late colleague removing to the new county, at once took an honorable position among the members of its bar, maintaining it until the day of his death.

He did not spend much of his life in public service. He served in the Legislature one or two winters and was afterward elected to this Convention. During

our sessions he was ill, much of the time confined to his room, suffering great pain, and yet never complaining. It might have been thought that because he was not oftener in the Convention, he was careless of his duties; but for the last year of his life he was nearly always suffering excruciating pains from the disease which finally terminated in his death. He died, as my friend from Venango has stated, on the 13th of November last, surrounded by his friends and his family, and was followed to his grave by a large concourse of his neighbors and friends in a community which mourns his loss.

He was a man somewhat peculiar in many things, of strong and decided opinions, of large and varied readings, and of scientific attainments. He held in high estimation the sciences of geology and astronomy, forming upon them new and positive theories. He held his opinions tenaciously on all subjects, and had some views peculiar to himself, to which he adhered to the last. He was honored in his life and blessed in his death. I well remember a letter which he wrote to a member of this body in which he saw that he had been suffering great pain and that his physician had after a final examination declared his disease incurable. He said he could not live long and would not again see us in Convention, and then he wrote:

"Out of the beauties of summer below
Into the beauty supernal I go."

He was a man of great integrity, of strong faith to his public trust, always having before him the knowledge that here his life was a transition to another and holier existence. He has passed away leaving a life fruitful in good deeds. May we remember his virtues to imitate them and be as ready as he to render our final account of our stewardship below.

Mr. WRIGHT. Not as a friend of long standing, but one of recent date, I would add a word on the subject which now engages the attention of this Convention. I am very proud to know that David Craig was my friend. It is a memory I shall always carry with me with great satisfaction.

The first time that I ever met this man was in a committee room of this building. He was an entire stranger to me, but I then formed what I know I will always cherish as a very sincere friendship. When this Convention re-assembled in Philadelphia it was with great pleasure that I found that Mr. Craig had taken up

his quarters at the same hotel. His room adjoined mine and his chair was at my side at the table, and I now call to mind with singular emotion that the two men intimately associated with me have passed from us. I allude as well to Mr. Craig as to Mr. Hopkins. His seat was between us, and I remember very well in the eulogy which he pronounced upon Mr. Hopkins that he referred to it as the little arch of friendship and that the keystone had been removed and we who remained should in time be called to follow him. How little I expected that so soon I would be called upon to see my other friend taken from us.

I learned to esteem and to admire this man. The qualities of his mind, the clearness of his perception, the force with which he expressed his opinions, attracted me to him. I have been given to understand by a research of the reports of the Supreme Court of the State that he was a lawyer of extensive practice, and from gentlemen who come from the part of the Commonwealth in which he lived, I learn that to have been his character in his legal profession. I found him to be remarkably tenacious of his opinions, entirely unalterable, and therefore, upon a particular subject he and I never controverted, for I found the current of his thoughts ran adverse to the opinion I had formed; but, sir, in all the nobler traits that ennobles men, I think he was highly endowed and hence my admiration for him.

I very well recollect a letter written to me in the hours of his suffering, when he said he was passing down gradually but certainly to his rest, that he did not look forward to the event with any apprehension, that his views were well founded and as he had lived so should he pass away. And then he added that little couplet that I repeat to myself so often with a mournful pleasure, written by the hand of one whom I am proud to have recognized as a friend, and as a friend whose memory will always be precious to me,

"Out of the beauties of summer below
Into the beauty supernal I go."

I am glad of the opportunity of expressing to this body my views upon this the fourth man that death has wrenched away from among us.

Mr. BOWMAN. I first became acquainted with the subject of these resolutions in this Hall at the commencement of the session of the Legislature of 1870. It was

my fortune during the session of that Legislature to have intimate relations with Mr. Craig. He was with me upon the Committee on the Judiciary. I found him ready in debate, prompt to act, with honesty and fidelity not only to his constituents, but to his fellow members on the committee and in the General Assembly. Living some distance from where he resided, our intercourse was measurably broken off at the adjournment of the Legislature of that session: I renewed my acquaintance with him here at the assembling of this Convention in November, 1872, and when the Convention reassembled in Philadelphia I continued my intercourse with Mr. Craig to my pleasure and profit.

I felt as though I could not let this opportunity pass without bearing testimony to the worth of our deceased colleague; and, without extending my remarks, as I have no doubt there are other gentlemen here who wish to pay a just tribute to his memory, I will merely add that now, as we are upon the eve of separating, for one, I feel a sadness coming over my heart. In looking over this assemblage we see that "farewell" is upon many of our lips, and ere we meet again after our final adjournment this evening, sepulchral winds may fan our foreheads and cypress trees shade our tombs. Should we not then remember that such a separation may be a parenthesis in our lives which will terminate in an eternal union in that realm of light, in that far off and better country beyond the stars.

Mr. MANTOR. Mr. President: This being the closing hour of this Convention, I rise in my place for the purpose of adding a word in relation to the subject of these proceedings, who was once with us full of animation and life, as we are to-night, and who has passed away to his final reward. I would take no part in these eulogies were it not for a remark which passed between the Hon. David Craig and myself. Sometime in the forepart of October, I left this Convention to go to my home in Crawford county. I stopped at the town of New Castle to visit him. I found him suffering excruciating pain from a disease that was fast carrying him down to his grave. In conversation with him he manifested great anxiety for the success and welfare and the final results of the work of this Convention. He expressed his deep regret that it was impossible, on account of his ill health, for him

to be with us; and numerous were the inquiries made after many, and I might say all the delegates in this body. While in conversation with him, or as I was about to leave, he made this remark: "You are about to leave and I feel as though my time was short; that my stay on earth was but a little while; and I have this request to make: "If you perchance should hear of my death, if possible, be present at my funeral." I turned sadly and mournfully away from his residence, believing that ere long I should be reminded of that remark, and promising myself, should I hear the announcement of his death, that I would attend his funeral.

On the 12th day of November, David Craig yielded up all that was of life and passed away to his final reward. I received a telegram by the direction of his family to attend his funeral. Although a distance of seventy-five miles from my home, I felt strongly impelled to comply with that telegram; I felt it more than a duty on that occasion; and I went and found the people in his town sad, and many of them in tears.

I might justly say on this occasion that it has rarely been my fortune to witness a funeral like that of Mr. Craig. All the members of the bar were present, and he was followed to his grave by a large concourse of mourning friends. The order of Odd Fellows, of which he was an honored member, bound by that fraternal tie of "friendship, love and truth," followed him also to the cemetery. The Masonic fraternity, too, of which he was a member, were there. They, too, passed around his coffin on that mournful occasion and dropped the green sprig in the grave, and as they passed away they all seemed to bear upon their faces evidence that they too had not only lost a friend, but a brother. But I believe this night, from the conversation that I had with him, the expressions and manifestations which he gave on every occasion, for he was a man no doubt of strong prejudices, a man of firm belief, that David Craig, like all of us who will very soon pass to "that undiscovered country from whose bourne no traveler returns," to be habituated to that immortality to which we shall all very soon pass. I remember his eulogism pronounced on the occasion of the death of the Hon. William Hopkins, and were I to repeat here to-night that, which seemed to be a favorite thing with him at the close of that address, I should do no injustice to

the man and should but repeat that which is eternal, common to all, when I say that—

"Soon or late
Stern Death will knock with equal pace,
At the palace as the cottage gate."

Mr. BIDDLE. Mr. President: I feel that I must add my humble tribute of respect to the memory of our deceased friend, coming as I do from a section of the State separated from his residence by the whole breadth of the State, and yet feeling a close union and brotherhood with him, as I do with all the members of this body who have been engaged now for more than a year in the labors, the result of which so many of us have been permitted to witness; and the more particularly, because before I met our deceased friend in this body, I had already known him and to some extent formed an acquaintance with him. It was my privilege to have made Mr. Craig's acquaintance about the year 1870, possibly in the previous year. We were, both of us, engaged in an important case originating in his own county and transferred in one of its phases to the city of Philadelphia, and I enjoyed the privilege of epistolary and personal communication with him.

I too can bear witness to the earnestness and zeal which, if he did not always show by words owing to the condition of his health, he felt in regard to the discharge of his duties. I recall one occasion when, although under the pressure of very severe sickness, he rose to take part in a discussion, prefacing the remarks that he was about to make with a reference to his bodily condition, and making a most admirable exposition of his own views and of the views that a large number felt with him on the report of the Judiciary Committee. I shared and entertained the same opinions that he did in regard to that subject, and I was extremely gratified to find that he brought the aid of his very considerable abilities to the same subject.

Mr. Craig was a very remarkable man in some respects. He was a man of extraordinary resolution of character. He had a good deal of the antique Roman in his composition. When he formed his opinions, forming them (as I have no doubt he did from the structure of his mental character) after considerable reflection and mature deliberation, he adhered to them; and when I enjoyed the privilege of reading a letter which he

wrote to our friend who has spoken so eloquently about him to-night, I was more impressed than I care now to say at that time.

He contemplated his passage from this world into eternity, not only with fortitude, but with serenity. Death seemed to have no terrors for him. He spoke of it as unavoidable; he spoke of it as not to be dreaded; he spoke of it as the natural termination of life; he spoke of it with the consciousness of a man who had tried according to his abilities to play the part assigned to him fairly and correctly; he spoke of it almost with pleasure as a release from a long bondage of pain and suffering. When, during our adjournment, I heard of his death, I felt greatly distressed, although I knew his near end was inevitable, that he had not been permitted to see the crowning of our work. I know that he felt deeply, that he felt strongly in regard to its success. He was one of those men of whom I should like to see a great many more.

This is not the time nor the place to speak of his peculiar opinions; but whatever those opinions were, he was honest in their adoption and steadfast in their maintenance. I believe from his views in regard to a very great and very awful subject, as upon all subjects, he would have maintained his opinion with the utmost fortitude. He was one of those men who, if he had lived at another era of the world's history, would have been made a martyr of. He was heroic in his temperament, and I am satisfied that if all the members of this body had had the same opportunities that I to some extent enjoyed, they would have felt that they have lost in Mr. Craig's death one of our most valued, as well as one of our most useful members.

This much, Mr. President, I have felt it as an obligation to say, the more particularly as all of the gentlemen who preceded me are from his own immediate neighborhood.

The PRESIDENT. The question is on the resolutions.

Mr. HARRY WHITE called for the yeas and nays.

Mr. DARLINGTON. If the vote be unanimous, I suggest that we insert the word "unanimously," so as to read "Resolved unanimously;" and that will do away with the necessity of calling the yeas and nays.

The PRESIDENT. The yeas and nays had better be taken.

The yeas and nays being taken resulted as follow :

Y E A S .

Messrs. Achenbach, Addicks, Alricks, Armstrong, Baily, (Perry,) Bailey, (Huntingden,) Baker, Bannan, Barr, Bartholomew, Beebe, Biddle, Bowman, Brodhead, Brown, Buckalew, Bullitt, Calvin, Campbell, Church, Cochran, Corson, Cronmiller, Curtin, Darlington, Dodd, Dunning, Ellis, Gibson, Gilpin, Guthrie, Hall, Hanna, Hay, Hazzard, Horton, Howard, Hunsicker, Kaine, Lambertson, Lawrence, Lilly, Littleton, Long, M'Camant, M'Clean, Mantor, Mitchell, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Rooke, Ross, Russell, Smith, H. G., Smith, Wm. H., Stewart, Stanton, Struthers, Temple, Turrell, Wetherill, J. M., Wetherill, John Price, White, Harry, Wright and Walker, *President*—72.

N A Y S .

None.

So the resolutions were agreed to.

ABSENT—Messrs. Ainey, Andrews, Baer, Barclay, Bardsley, Bigler, Black, Boyd, Broomall, Carey, Carter, Cassidy, Clark, Collins, Corbett, Curry, Cuyler, Dallas, Davis, DeFrance, Edwards, Elliott, Ewing, Fell, Finney, Fulton, Funck, Green, Harvey, Hemphill, Heverin, Knight, Landis, Lear, MacConnell, MacVeagh, M'Culloch, M'Michael, M'Murray, Mann, Metzger, Minor, Mott, Niles, Palmer, H. W., Parsons, Pughe, Purman, Read, John R., Reynolds, Runk, Sharpe, Simpson, Smith, Henry W., Van Reed, Wherry, White, David N., White, J. W. F., Woodward and Worrell—60.

THANKS TO PRESIDENT WALKER.

Mr. HAZZARD offered the following resolution :

Resolved, That the thanks of this Convention are due and are hereby tendered to the Hon. John H. Walker for the dignified and impartial manner in which he has presided over the deliberations of this body.

The resolution was read the second time and considered.

Mr. DARLINGTON. I move to amend by inserting the word unanimously, so that it will read :

Resolved unanimously, That the thanks of this Convention are due, &c.

Mr. J. N. PURVIANCE. I move that the Convention adjourn *sine die*, the vote to be taken on this motion as soon as the resolution of my friend from Washington shall be disposed of.

The PRESIDENT. Gentlemen: Your work is done. It has been well done, as the election upon the sixteenth of this month has demonstrated. That vote makes it unnecessary for anything to be said by me or by any delegate in this Convention approving of your work. One other remark I may make, for that was not as distinctly known to our constituents as it is known to ourselves, certainly as it is known to me, and that is this: That from the day we assembled here until this hour we have been ruled, we have been controlled, not by any political notion, [applause,] not by the idea of making a Constitution for a section or clan, but by the desire to make an organic law under which the people of this State may for years live and prosper. [Great applause.] I believe, fellow-delegates, that we have succeeded in this. We have presented to the people, and they have adopted, a Constitution up to the hour in which we live. [Applause.] It may have mistakes in it; but what instrument has not? There never has one been produced, and never will be one by mortal man, but what has errors and mistakes. I believe as firmly as I believe in my present being, that we not only intended to do what was right, but that we have done what was right, [applause,] and that the people appreciated our work by the vote that was taken on the sixteenth inst.

Now, delegates, for myself, I return to you, (which I should have done long since,) my sincere thanks for the honor that you have conferred upon me by electing me as your President; and not only for that, but for the kind manner in which you have sustained me, notwithstanding the many errors that I was liable to fall into and more than one that I did unintentionally fall into. I believe that every delegate here will bear me out when I say that I tried to do and did do the duties of this Chair with impartiality, without paying regard to this one or that one. We have had a little conflict of opinion, but it was but the ebullition of the moment.

I will remember, my fellow-delegates, to the day of my death, the honor of being your presiding officer, the honor of being sustained by gentlemen as intelli-

gent as you are, selected throughout this Commonwealth. It now remains but to adjourn. The yeas and nays, I believe, have been called for. The Clerk will call the names. [Applause.]

The CHIEF CLERK. The question is first on the final passage of the resolution thanking Mr. Walker.

The resolution was adopted unanimously.

The PRESIDENT. The yeas and nays are called for on the motion to adjourn *sine die*.

Loud and repeated calls were made for Governor Curtin.

Mr. KAINE. I suggest that the yeas and nays be called on the adjournment, and then before the announcement of the result, any gentleman may be called upon to make a speech.

The PRESIDENT. The Clerk then will call the roll.

The CLERK proceeded to call the roll, at the conclusion of which the calls for Governor Curtin were vigorously renewed.

Mr. CURTIN. I am very much obliged to you, gentlemen, for the compliment, but I will not make a speech. ["Speech." "Speech!"] I do not know anything that you do not all know. [Laughter.] If I could say anything new, it might possibly be true, and if I were to say anything true, it would not be new to any of you. [Laughter.] I said in Philadelphia that members of this Convention were all king bees, and I think the people have ratified what I said. I have nothing to say except to commend the work which has been so ratified by the people, and now in this solemn hour when we are about to depart, with the solemnity of the speeches made over the death of the fourth colleague who has been called since our session commenced, and inspired by the happy effort of our President, I can only wish you all farewell. [Applause.]

Mr. DARLINGTON was loudly called upon but declined to respond.

The result of the roll call was then announced, as follow :

YEAS.

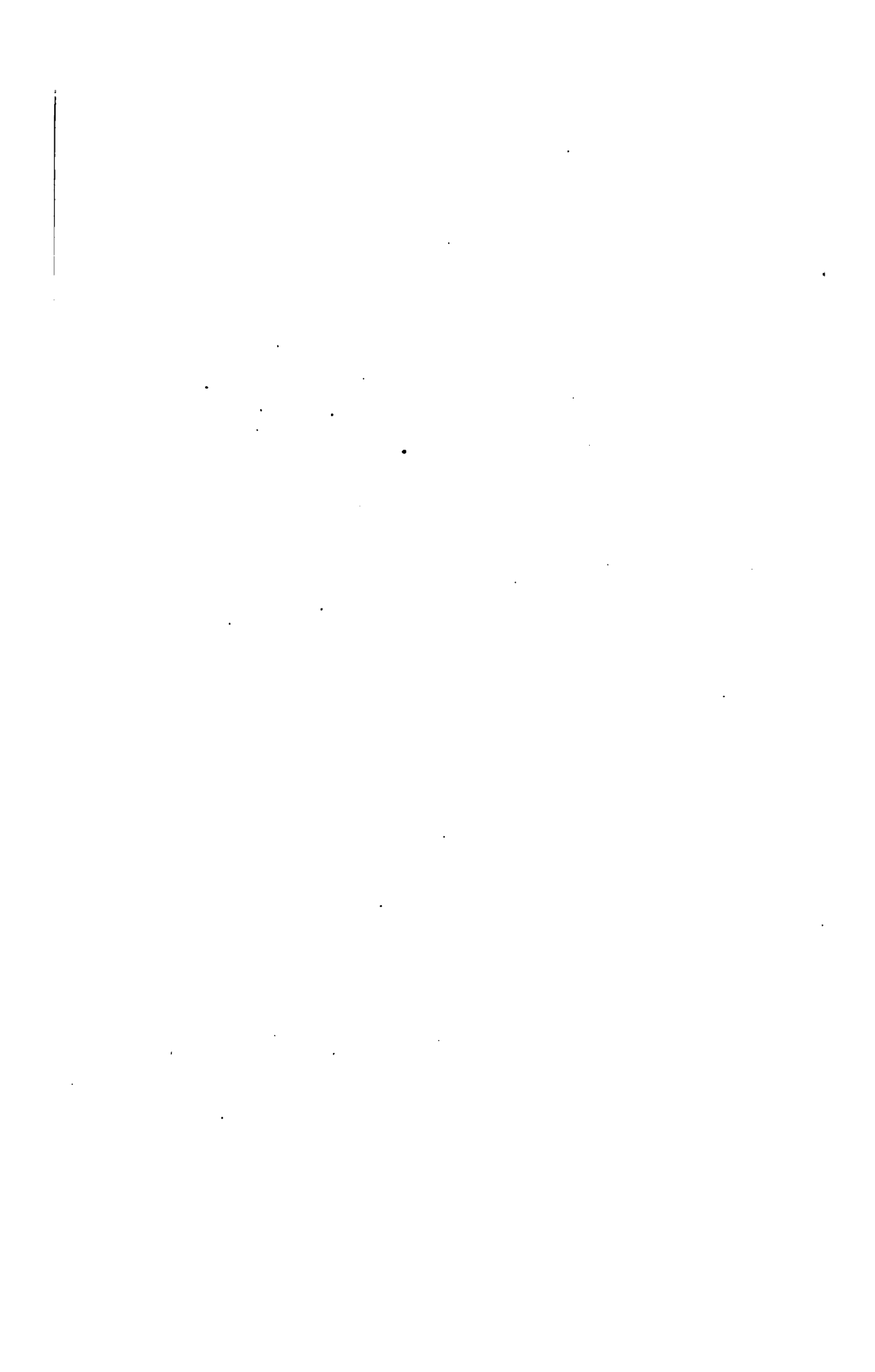
Messrs. Achenbach, Addicks, Alricks, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Barr, Bartholomew, Beebe, Biddle, Bowman, Brodhead, Brown, Buckalew, Bullitt, Calvin, Campbell, Church, Cochran, Corson, Crenmiller, Curtin, Darlington, Dodd, Dunning, Edwards, Ellis, Fulton, Gibson, Gilpin, Guthrie, Hall, Hanna, Hay, Hazzard, Horten, Howard, Hunsicker, Kaine, Lambertson, Landis, Lawrence, Lilly, Littleton, Long, M'Canant, M'Clean, Mantor, Mitchell, Newlin, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Ross, Runk, Russell, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Wetherill, J. M., Wetherill, John Price, White, Harry, Wright and Walker, *President*—78.

NAYS.

None.

ABSENT.—Messrs. Ainey, Andrews, Baer, Bannan, Barclay, Bardaley, Bigler, Black, Boyd, Broomall, Carey, Carter, Cassidy, Clark, Collins, Corbett, Curry, Cuyler, Dallas, Davis, De France, Elliott, Ewing, Fell, Finney, Funck, Green, Harvey, Hemphill, Heverin, Knight, Lear, MacConnell, MacVeagh, M'Culloch, M'Michael, M'Murray, Mann, Metzger, Minor, Mott, Niles, Palmer, H. W., Parsons, Pughe, Purman, Read, John R., Reynolds, Rooke, Sharpe, Simpson, Smith, Henry W., Stewart, Van Reed, Wherry, White, David N., White, J. W. F., Woodward and Worrell—59.

Whereupon, (at nine o'clock and four minutes, P. M.,) the President declared the Convention adjourned *sine die*.



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