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II

VOTES AND SPEECHES

OF

MARTIN VAN BUREN,

ON THE

SUBJECTS OF THE RIGHT OF SUFFRAGE, THE QUALIFICATIONS OF COLOURED PERSONS TO VOTE, AND THE APPOINTMENT OR ELECTION OF JUSTICES OF THE PEACE.

IN THE CONVENTION OF THE STATE OF NEW-YORK,

(Assembled to amend the Constitution in 1821.)

DULY AUTHENTICATED AND VERIFIED.

ALBANY.

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1840.

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[Having seen the annexed correspondence and extracts, we procure a copy for publication, to enable us to answer the numerous inquiries on the subject, addressed to us from various parts of the United States.—Editor ALBANY EVENING JOURNAL.]

(Copy of a letter from Greer W. Davis.)

*Jackson, Cape Girardeau County, Missouri, }
May 19th, 1840. }*

DEAR SIR :

It is my desire, if compatible with your duties, to obtain from the Secretary's office a certified copy of the votes of Martin Van Buren in the New-York Convention, on the following subjects : *First.* His vote on his opposition to any man voting unless he was a householder. *Secondly.* His vote on the proposition to restrict the right of voting to white citizens ; and *Thirdly.* His vote opposing the election of justices of the peace by the people, and what he said directly on these subjects. If it is proper for you to give me such a certificate, I want it properly authenticated ; on the contrary, if the votes of Van Buren were in favor of universal suffrage, in favor of elections of justices of the peace by the people, and opposed to free negroes voting, your simple statement to that effect would be sufficient, and I would no longer urge the contrary against him as a reason why he should not be re-elected. I live in that part of Missouri where Van Buren principles prevail, and it is my desire to procure that kind of testimony that cannot be refuted. When such testimony as the above is presented from newspapers or Holland's life, it is treated with contempt. You know whether it is your privilege to furnish me with what I request, or not ; if it is not, you will not of course hesitate to refuse it ; but sir, if you will not be acting out of the line of your duty, I shall be greatly obliged, and will cheerfully remit all the necessary fees.

Very respectfully yours,

GREER W. DAVIS.

*To the Secretary of the State of New-York,
Albany, New-York.*

SECRETARY'S OFFICE, }
Albany, 23d June, 1840. }

GREER W. DAVIS, Esq.

Jackson, Cape Girardeau County, Missouri.

SIR :—I have received your letter, in which you request “a certified copy of the votes of Martin Van Buren in the New-York Convention, on the following subjects: *First.* His vote on the opposition to any man voting unless he was a householder. *Second.* His vote on the proposition to restrict the right of voting to white citizens; and *Third.* His vote opposing the election of justices of the peace by the people, and what he said directly on these subjects.” You also state the reasons why you desire an official certificate of the matters mentioned.

By the act of the legislature providing for the meeting of the convention, it is directed that their proceedings should be filed in this office. I find deposited here the journal of the convention, printed by the printers to the state, and which I presume are the proceedings referred to in the act. The journals of the two houses are, in like manner, deposited in this office in a printed form. Indeed the journals exist in no other form, and when printed by the state printer, are by law evidence. It has been the practice for the Secretary of State to certify copies of any portion of the journals that was required. Under these circumstances, I conceive it to be my duty to comply with your request for certified copies of those parts of the journal of the convention which contain the votes on the subjects indicated by you. In order to present those votes fully and fairly, it became necessary to extract all that exhibited the subject or propositions on which they were given, and this has caused their length. The journals contain nothing but a record of the proceedings of the convention, and, therefore, what Mr. Van Buren, or any other member, said in the course of debate, does not appear in them. But during the sitting of the convention, reporters of great ability attended, and the remarks of the members were published from day to day in the newspapers of the state. Upon the adjournment of that body, there appeared a volume of more than 700 pages, entitled “Reports of the proceedings and debates of the convention of 1821, assembled for the purpose of amending the constitution of the State of New-York; containing all the official documents relating to the subject, and other valuable matter. By Nathaniel H. Carter and William L. Stone, reporters, and Marcus T. C. Gould, stenographer.” It has always been considered an accurate account of the remarks and speeches in the convention, and I have never heard it charged with unfairness, or with attributing to any member sentiments he did not utter. On the contrary, it is

constantly referred to by editors and writers of the different political parties, as authority on the subject, of what was said and done in the convention. It is understood that the editors of this volume were unfriendly to many of the provisions contained in the new constitution. About the same time there was also published a volume of some 350 pages, entitled "Reports of the debates and proceedings in the Convention of the State of New-York, held at the capitol in the city of Albany, on the 28th day of August, 1821. By L. H. Clarke." This is substantially like the former work, being compiled, as the editor states, from the same materials. The editor of this volume was, at the time, the political friend of Mr. Van Buren, and friendly to all the important provisions incorporated in the constitution. The speeches given by him were, as he states in his preface, published in the New-York American, a paper at that time cooperating with Mr. Van Buren. These books are not official, and of course no official evidence of their contents can be given. Still it seems but just to the members of the convention, that the explanation of their views, which they gave at the time, should accompany their votes. As it is impossible to transmit the books to you by any means of conveyance within my reach. I have thought that I could comply with your request as nearly as circumstances permitted, by having those passages faithfully copied which contained the remarks of Mr. Van Buren on the subjects indicated by you. This has been done, and I have compared them with the original. It so happens that these passages are, *verbatim*, alike in the two volumes of reports before described.

I have felt some reluctance in verifying these copies by my certificate. I have no desire to be forward in furnishing materials for political contest. But I am called upon by those who are entitled to know what Mr. Van Buren said, to furnish them authentic evidence of his remarks. While I am under no greater obligation to do so than any other citizen, yet I am under the same as any other, and if I may refuse compliance with a request in itself civil and proper, others may do the same. I was unwilling also to give what might appear a semi-official sanction to these extracts. But with the explanation now made, that my certificate of the accuracy of the copies is wholly and exclusively individual, I think there can be no danger of any greater credit being given to them than they are entitled to receive. Upon the whole I have concluded, that I had no right to refuse the only evidence that it was in my power to give of these being faithful extracts, so that those who desired it should have the means of judging for themselves, and of correcting the many misrepresentations which have prevailed

on the subject. It is proper to observe, that the extracts given contain *the whole* of what is reported in the volumes before mentioned, as having been said at the time by Mr. Van Buren on the given subjects, and of course there is some superfluous matter. But I did not feel at liberty to abridge, or in any manner vary, the original.

Respectfully,

Your obed'nt serv't,

JOHN C. SPENCER.

EXTRACTS

From the Journal of the Convention of the State of New-York, begun and held at the Capitol in the city of Albany, on the 28th day of August, 1821.

[p. 90.] THURSDAY, TEN O'CLOCK A. M.

September 20, 1821.

The convention met pursuant to adjournment. On motion of Mr. N. Sanford,

The convention then resolved itself into a committee of the whole on the report of the committee on the right of suffrage and the qualifications of persons to be elected: and after some time spent thereon, Mr. President resumed the chair, and Mr. N. Williams from the said committee reported, that in further proceeding on the said report, the first amendment proposed by the select committee, was again read in the words following, to wit:

Every white male citizen of the age of twenty-one years, who shall have resided in this state six months next preceding any election, and shall within one year preceding the election, have paid any tax assessed upon him, or shall within one year preceding the election, have been assessed to work on a public road, and shall have performed the work assessed upon him, or shall have paid an equivalent in money therefor, according to law, or shall, within one year preceding the election, have been enrolled in the militia of this state, and shall have served therein according to law, shall be entitled to vote at such election in the town or ward in which he shall reside, for governor, lieutenant governor, senators, members of the assembly, and all other officers who are or may be elected by the people.

That Mr. Jay made a motion to strike out the word "*white*" in the first line of the said amendment.

That debates were had thereon, and the question having been put whether the committee would agree to the said motion, it was carried in the affirmative.

That the yeas and nays being called for by Mr. R. Clarke, seconded by Mr. Tallmadge, and having been required by ten members, were as follows, to wit: Ayes 63. Nays 59.

For the affirmative:—Mr. Bacon, Mr. Baker, Mr. Barlow, Mr. Beckwith, Mr. Birdseye, Mr. Brinkerhoff, Mr. Brooks, Mr. Buel, Mr. Burroughs, Mr. Carver, Mr. R. Clarke, Mr. Collins, Mr. Cramer, Mr. Day, Mr. Dodge, Mr. Duer, Mr. Eastwood, Mr. Edwards, Mr. Ferris, Mr. Fish, Mr. Hallock, Mr. Hees, Mr. Hogeboom, Mr. Hunting, Mr. Huntington, Mr. Jay, Mr. Jones, Mr. Kent, Mr. King, Mr. Moore, Mr. Munro, Mr. Nelson, Mr. Park, Mr. Paulding, Mr. Pitcher, Mr. Platt, Mr. Reeve, Mr. Rhineland, Mr. Richards, Mr. Rogers, Mr. Rosebrugh, Mr. Sanders, Mr. N. Sanford, Mr. Seaman, Mr. Steele, Mr. D. Southerland, Mr. Swift, Mr. Sylvester, Mr. Tallmadge, Mr. Tuttle, Mr. Van Buren, Mr. Van Ness, Mr. J. R. Van Rensselaer, Mr. S. Van Rensselaer, Mr. Van Vechten, Mr. Ward, Mr. A. Webster, Mr. Wendover, Mr. Wheaton, Mr. E. Williams, Mr. Woodward, Mr. Wooster, Mr. Yates.

For the negative:—Mr. Bowman, Mr. Breese, Mr. Briggs, Mr. Carpenter, Mr. Case, Mr. Child, Mr. D. Clark, Mr. Clyde, Mr. Dubois, Mr. Dyckman, Mr. Fairlie, Mr. Fenton, Mr. Frost, Mr. Howe, Mr. Humphrey, Mr. Hunt, Mr. Hunter, Mr. Hurd, Mr. Knowles, Mr. Lansing, Mr. Lawrence, Mr. Lefferts, Mr. A. Livingston, Mr. P. R. Livingston, Mr. McCall, Mr. Millikin, Mr. Pike, Mr. Porter, Mr. Price, Mr. Pumpelly, Mr. Radcliff, Mr. Rockwell, Mr. Root, Mr. Rose, Mr. Ross, Mr. Russel, Mr. Sage, Mr. R. Sanford, Mr. Schenck, Mr. Seeley, Mr. Sharpe, Mr. Sheldon, Mr. J. Smith, Mr. R. Smith, Mr. Spencer, Mr. Starkweather, Mr. J. Sutherland, Mr. Taylor, Mr. Ten Eyck, Mr. Townley, Mr. Townsend, Mr. Tripp, Mr. Van Fleet, Mr. Van Horne, Mr. Verbryck, Mr. E. Webster, Mr. Wheeler, Mr. Woods, Mr. Young.

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Extract from the Journal of

(p. 155.) THURSDAY, NINE O'CLOCK A. M.

October 4, 1821.

On motion of Mr. Van Buren,

The convention then again resolved itself into a committee of the whole, on the report of the committee on so much of the constitution as relates to the power of appointment to office, and the tenure thereof; and after some time spent thereon; Mr. President resumed the chair, and Mr. Lawrence, from the said committee, reported, that in further proceeding on the said report, the first part of the fifth amendment thereof was again read in the words following, to wit:

V. That there shall be elected in every town in this state, by the persons qualified to vote for members of the legislature, so many justices of the peace as the legislature may direct, not exceeding four in any town.

That debates were had thereon, and the question having been put whether the committee would agree to the same, it passed in the negative.

That the yeas and nays having been required by ten members, were as follows, to wit: Nays 57. Ayes 54.

For the negative:—Mr. Barlow, Mr. Beckwith, Mr. Birdseye, Mr. Breese, Mr. Buel, Mr. Burroughs, Mr. Carver, Mr. Case, Mr. Child, Mr. R. Clark, Mr. Clyde, Mr. Cramer, Mr. Dodge, Mr. Dubois, Mr. Fairlie, Mr. Fenton, Mr. Ferris, Mr. Frost, Mr. Hogeboom, Mr. Howe, Mr. Humphrey, Mr. Hunt, Mr. Hunter, Mr. Hunting, Mr. Jay, Mr. Jones, Mr. Knowles, Mr. Lansing, Mr. Munro, Mr. Nelson, Mr. Park, Mr. Pike, Mr. President, Mr. Pumpelly, Mr. Radcliff, Mr. Richards, Mr. Root, Mr. Ross, Mr. Russell, Mr. Seaman, Mr. Sheldon, Mr. I. Smith, Mr. Starkweather, Mr. Steele, Mr. J. Sutherland, Mr. Swift, Mr. Sylvester, Mr. Taylor, Mr. Tuttle, Mr. Van Buren, Mr. Van Horne, Mr. S. Van Rensselaer, Mr. Van Vechten, Mr. Wheeler, Mr. N. Williams, Mr. Yates, Mr. Young.

For the affirmative:—Mr. Bacon, Mr. Baker, Mr. Bowman, Mr. Briggs, Mr. Brinkerhoff, Mr. Brooks, Mr. Carpenter, Mr. Collins, Mr. Day, Mr. Duer, Mr. Dyckman, Mr. Eastwood, Mr. Edwards, Mr. Fish, Mr. Hallock, Mr. Hees, Mr. Huntington, Mr. Hurd, Mr. Kent, Mr. King, Mr. Lefferts, Mr. A. Livingston, Mr. McCall, Mr. Millikin, Mr. Moore, Mr. Paulding, Mr. Pitcher, Mr. Platt, Mr. Porter, Mr. Price, Mr. Reeve, Mr. Rhineland, Mr. Rosebrugh, Mr. Sage, Mr. Sanders, Mr. N. Sanford, Mr. R. Sanford, Mr. Seeley, Mr. Sharpe, Mr. R. Smith, Mr. Spencer, Mr. Stagg, Mr. D. Southerland, Mr. Tallmadge, Mr. Townley, Mr. Van Fleet, Mr. Van Ness, Mr. J. R. Van Rensselaer, Mr. Ward, Mr. E. Webster, Mr. Wender, Mr. Wheaton, Mr. E. Williams, Mr. Woodward.

Extract from the Journal of

(p 158.) FRIDAY, NINE O'CLOCK A. M.

October 5, 1821.

The convention met pursuant to adjournment. On motion of Mr. Ross,

The convention then again resolved itself into a committee of the whole, on the report of the committee on so much of the

constitution as relates to the power of appointment to office and the tenure thereof; and after some time spent thereon Mr. President resumed the chair, and Mr. Lawrence, from the said committee, reported, that in further proceeding on the said report, the second amendment, relative to the appointment of civil officers, after being amended, was again read in the words following, to wit:

II. That the Governor shall nominate by message, in writing, and with the consent of the senate shall appoint the Secretary of State, Attorney-General, and all judicial officers, except justices of the peace.

That Mr. Van Buren made a motion to add to the said amendment the words following, to wit:

“Who shall be appointed in the manner following, to wit: That the board of supervisors in every county in this state, shall once in every years, at such time as the legislature may direct, recommend to the Governor a list of persons, equal in number to the justices of the peace to be appointed for said county; and the respective courts of common pleas of the several counties shall also recommend a list of the like number. And as often as any vacancies shall happen, the boards of supervisors and courts of common pleas of the counties in which such vacancies may happen, shall recommend lists of persons equal to the number of vacancies in such county: and from the lists so recommended, the Governor shall appoint and commission the justices of the peace for the respective counties. That the said justices shall hold their offices for years, but may be removed by the Governor, on the address of the body which recommended the appointment, stating in writing the grounds of removal.”

That debates were had thereon, and the question having been put, whether the committee would agree to the said motion, it passed in the negative.

That the yeas and nays having been required by ten members, were as follows, to wit: Nays 58. Ayes 56.

For the negative:—Mr. Bacon, Mr. Baker, Mr. Bowman, Mr. Briggs, Mr. Brooks, Mr. Carpenter, Mr. Collins, Mr. Duer, Mr. Edwards, Mr. Fish, Mr. Hallock, Mr. Hees, Mr. Hogeboom, Mr. Huntington, Mr. Hurd, Mr. Jay, Mr. Jones, Mr. Kent, Mr. King, Mr. Lefferts, Mr. A. Livingston, Mr. McCall, Mr. Millikin, Mr. Moore, Mr. Paulding, Mr. Platt, Mr. Porter, Mr. Price, Mr. Radcliff, Mr. Rhineland, Mr. Rose, Mr. Rosebrugh, Mr. Sage, Mr. Sanders, Mr. N. Sanford, Mr. R. Sanford, Mr. Seeley, Mr. Sharpe, Mr. I. Smith, Mr. R. Smith, Mr. Spencer, Mr. Stagg, Mr. D. Southerland, Mr. Sylvester, Mr. Tallmadge, Mr. Townley, Mr. Van Fleet, Mr. Van

Ness, Mr. J. R. Van Rensselaer, Mr. S. Van Rensselaer, Mr. Van Vechten, Mr. Ward, Mr. E. Webster, Mr. Wendover, Mr. Wheaton, Mr. E. Williams, Mr. Woods, Mr. Woodward.

For the Affirmative:—Mr. Barlow, Mr. Beckwith, Mr. Birdseye, Mr. Breese, Mr. Brinckerhoff, Mr. Buel, Mr. Burroughs, Mr. Carver, Mr. Case, Mr. Child, Mr. R. Clarke, Mr. Clyde, Mr. Cramer, Mr. Day, Mr. Dodge, Mr. Dubois, Mr. Dyckman, Mr. Eastwood, Mr. Fairlie, Mr. Fenton, Mr. Ferris, Mr. Frost, Mr. Howe, Mr. Humphrey, Mr. Hunt, Mr. Hunter, Mr. Hunting, Mr. Lansing, Mr. Munro, Mr. Nelson, Mr. Park, Mr. Pike, Mr. Pitcher, Mr. President, Mr. Pumpelly, Mr. Reeve, Mr. Richards, Mr. Root, Mr. Ross, Mr. Russell, Mr. Schenck, Mr. Sheldon, Mr. Starkweather, Mr. Steele, Mr. J. Sutherland, Mr. Swift, Mr. Taylor, Mr. Townsend, Mr. Tripp, Mr. Tuttle, Mr. Van Buren, Mr. Van Horne, Mr. Wheeler, Mr. N. Williams, Mr. Yates, Mr. Young.

Extract from the Journal of

p. 168. SATURDAY, NINE O'CLOCK, A. M.

October 6, 1821.

That in further proceeding on the said report of the select committee, the second division of the said amendment was again read in the words following to wit:

“And also every male citizen of the age of twenty-one years, who shall have been for three years next preceding such election, an inhabitant of this State, and for the last year a resident in the town, county or district where he may offer his vote; and shall have been within the last year assessed to labor upon the public highways, and shall have performed the labor, or paid an equivalent therefor, according to law; shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all offices that now are, or hereafter may be elective by the people:”

That Mr. Radcliff then made a motion to expunge the words following, commencing in the fifth line, to wit: “And shall have been, within the last year assessed to labor upon the public highways, and shall have performed the labor or paid an equivalent therefor according to law.”

That debates were had thereon, and the question having been put, whether the committee would agree to the said motion, it passed in the negative.

That the yeas and nays having been required by ten members, were as follows, to wit: Nays 88, Ayes 14.

For the Negative:—Mr. Beckwith, Mr. Birdseye, Mr. Bowman, Mr. Breese, Mr. Brinckerhoff, Mr. Brooks, Mr. Buel, Mr. Burroughs, Mr. Carpenter, Mr. Carver, Mr. Case, Mr. Child, Mr. D. Clark, Mr. R. Clarke, Mr. Clyde, Mr. Collins, Mr. Cramer, Mr. Day, Mr. Dodge, Mr. Dubois, Mr. Duer, Mr. Eastwood, Mr. Edwards, Mr. Fenton, Mr. Ferris, Mr. Fish, Mr. Frost, Mr. Hallock, Mr. Hees, Mr. Hogeboom, Mr. Howe, Mr. Humphrey, Mr. Hunt, Mr. Hunting, Mr. Huntington, Mr. Hurd, Mr. Jay, Mr. Jones, Mr. Kent, Mr. Lansing, Mr. Lefferts, Mr. A. Livingston, Mr. McCall, Mr. Moore, Mr. Munro, Mr. Nelson, Mr. Park, Mr. Paulding, Mr. Pike, Mr. Pitcher, Mr. Platt, Mr. Porter, Mr. President, Mr. Price, Mr. Pumpelly, Mr. Rhinelander, Mr. Richards, Mr. Root, Mr. Rosebrugh, Mr. Ross, Mr. Russell, Mr. Sage, Mr. R. Sanford, Mr. Schenck, Mr. Seeley, Mr. Sharpe, Mr. Sheldon, Mr. R. Smith, Mr. Spencer, Mr. Stagg, Mr. Starkweather, Mr. Steele, Mr. Swift, Mr. Tallmadge, Mr. Taylor, Mr. Townsend, Mr. Tuttle, Mr. Van Buren, Mr. Van Fleet, Mr. Van Ness, Mr. Ward, Mr. E. Webster, Mr. Wendover, Mr. Wheaton, Mr. Wheeler, Mr. E. Williams, Mr. Woodward, Mr. Young.

For the Affirmative:—Mr. Bacon, Mr. Barlow, Mr. Briggs, Mr. Dyckman, Mr. Fairlie, Mr. King, Mr. Lawrence, Mr. Radcliff, Mr. N. Sanford, Mr. Seaman, Mr. I. Smith, Mr. S. Van Rensselaer, Mr. Van Vechten, Mr. Woods.

[Page 173, same day, October 6.]

That the third division of the said amendment was again read in the words following to wit :

“ Provided, That no male citizen other than white, shall be subject to taxation, or entitled to vote at any election, unless in addition to the qualifications of age and residence last above mentioned, he shall be seised and possessed, in his own right, of a freehold estate of the value of two hundred and fifty dollars over and above all debts and incumbrances charged thereon ; and shall have been, within the year next preceding the election, assessed, and shall have actually paid a tax to the State or county.”

That debates were had thereon, and the question having been put, whether the committee would agree to the same, it was carried in the affirmative.

That the yeas and nays having been required by ten members were as follows, to wit : Ayes 72, Nays 28.

For the Affirmative:—Mr. Barlow, Mr. Beckwith, Mr. Bowman, Mr. Briggs, Mr. Brinckerhoff, Mr. Burroughs, Mr. Carpenter, Mr. Carver, Mr. Case, Mr. D. Clark, Mr. Collins, Mr. Dodge, Mr. Dubois, Mr. Dyckman, Mr. Edwards, Mr. Fairlie, Mr. Fenton, Mr. Ferris, Mr. Frost, Mr. Hallock, Mr. Howe,

Mr. Humphrey, Mr. Hunt, Mr. Hunting, Mr. Hurd, Mr. Lansing, Mr. Lawrence, Mr. Lefferts, Mr. A. Livingston, Mr. McCall, Mr. Moore, Mr. Nelson, Mr. Park, Mr. Pike, Mr. Porter, Mr. President, Mr. Price, Mr. Pumpelly, Mr. Radcliff, Mr. Richards, Mr. Rosebrugh, Mr. Ross, Mr. Russell, Mr. Sage, Mr. R. Sanford, Mr. Schenck, Mr. Seaman, Mr. Seeley, Mr. Sharpe, Mr. Sheldon, Mr. I. Smith, Mr. R. Smith, Mr. Stagg, Mr. Starkweather, Mr. Steele, Mr. D. Southerland, Mr. Swift, Mr. Tallmadge, Mr. Taylor, Mr. Townsend, Mr. Tripp, Mr. Tuttle, Mr. Van Buren, Mr. Van Fleet, Mr. Van Horne, Mr. Ward, Mr. E. Webster, Mr. Wendover, Mr. Wheeler, Mr. Woods, Mr. Woodward, Mr. Young.

For the Negative :—Mr. Bacon, Mr. Birdseye, Mr. Brooks, Mr. Buel, Mr. Child, Mr. R. Clarke, Mr. Clyde, Mr. Day, Mr. Duer, Mr. Eastwood, Mr. Fish, Mr. Hees, Mr. Huntington, Mr. Jay, Mr. Jones, Mr. Kent, Mr. King, Mr. Munro, Mr. Paulding, Mr. Pitcher, Mr. Platt, Mr. Rhineland, Mr. Root, Mr. N. Sanford, Mr. Spencer, Mr. Van Ness, Mr. J. R. Van Rensselaer, Mr. S. Van Rensselaer, Mr. Wheaton, Mr. E. Williams.

STATE OF NEW-YORK, }
 SECRETARY'S OFFICE. }

I certify that I have compared the foregoing extracts with the original passages contained in the Journal of the Convention of the State of New-York, begun and held at the Capitol in the city of Albany on the twenty-eighth day of August, 1821, printed by the Printers to the State and deposited in this office, and now in my custody, and that the same are correct transcripts therefrom, and of the whole of the said original passages.

[L. s.] In testimony whereof I have hereunto set my hand and affixed my seal of office at Albany, this twenty-third day of June, 1840.

JOHN C. SPENCER,
Secretary of State.



EXTRACTS

From Carter & Stone's Reports of the Proceedings and Debates in the Convention of 1821, assembled for the purpose of amending the Constitution of the State of New-York.

Extract from proceedings of Thursday, September 27, 1821, page 277.

RIGHT OF SUFFRAGE.

MR. VAN BUREN felt himself called on to make a few remarks in reply to the gentleman from Delaware. He observed, that it was evident, and indeed some gentlemen did not seem disposed to disguise it, that the amendment proposed by the honorable gentleman from Delaware contemplated nothing short of universal suffrage. Mr. V. B. did not believe that there were twenty members of that committee, who, were the bare naked question of universal suffrage put to them, would vote in its favor; and he was very sure that its adoption was not expected, and would not meet the views of their constituents.

Mr. V. B. then replied to a statement made yesterday by his honorable and venerable friend from Erie, (Mr. Russell,) in relation to the exclusion of soldiers who had fought at Quebec and Stoney Point under the banners of Montgomery and Wayne. And he felt the necessity of doing this, because such cases, urged by such gentlemen as his honorable friend, were calculated to make a deep and lasting impression. But although a regard for them did honor to that gentleman, yet it was the duty of the Convention to guard against the admission of those impressions which sympathy in individual cases may excite. It was always dangerous to legislate upon the impulse of individual cases, where the law about to be enacted is to have a general operation. With reference to the case of our soldiers, the people of this State and country had certainly redeemed themselves from the imputation that republics are ungrateful.

With an honorable liberality they had bestowed the military lands upon them; and to gladden the evening of their days, had provided them with pensions. Few of those patriots were now living, and of that few, the number was yearly diminishing. In fifteen years, the grave will have covered all those who now survived. Was it not, then, unwise to hazard a wholesome restrictive provision, lest in its operation it might affect these few individuals for a very short time? He would add no more. His duty would not permit him to say less.

One word on the main question before the committee. We had already reached the verge of universal suffrage. There was but one step beyond. And are gentlemen prepared to take that step? We were cheapening this invaluable right. He was disposed to go as far as any man in the extension of rational liberty; but he could not consent to undervalue this precious privilege, so far as to confer it with an indiscriminating hand upon every one, black or white, who would be kind enough to condescend to accept it.

Extract from proceedings of Saturday, October 6, 1821.

Page 366.

The question in order was on the part of the section expressed in the words following:

“And also every male citizen of the age of twenty-one years who shall have been for three years next preceding such election, an inhabitant of this State; and for the last year a resident in the town, county, or district where he may offer his vote; and shall have been within the last year assessed to labor upon the public highways, and shall have performed the labor or paid an equivalent therefor, according to law, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be elective by the people.”

Mr. VAN BUREN said, that as the vote he should now give on what was called the highway qualification would be different from what it had been on a former occasion, he felt it a duty to make a brief explanation of the motives which governed him. The qualifications reported by the first committee, were of three kinds, viz: the payment of a money tax—the performance of military duty, and working on the highway. The two former had met with his decided approbation; to the latter, he wished to add the additional qualification, that the elector should, if he paid no tax, performed no militia duty, but offered his vote on the sole ground that he had labored on the highways, also be a *house-holder*; and that was the only point in which he had dissented from the report of the committee. To effect this object, he supported a motion made by a gentle-

man from Dutchess, to strike out the highway qualification, with a view of adding "*householder.*" That motion, after full discussion, had prevailed by a majority of twenty. But what was the consequence? The very next day, the same gentlemen who thought the highway tax too liberal a qualification, voted that every person of twenty-one years of age, having a certain term of residence, and excluding *actual* paupers, should be permitted to vote for any officer in the government from the highest to the lowest—far out-vieing in this particular the other States in the Union and verging from the extreme of restricted, to that of universal suffrage. The Convention, sensible of the very great stride which had been taken by the last vote, the next morning referred the whole matter to a select committee of thirteen, whose report was now under consideration. That committee, though composed of gentlemen, a large majority of whom had voted for the proposition for universal suffrage, had now recommended a middle course, viz: the payment of a money tax, or labor on the highway, excluding militia service, which had, however been very properly reinstated. The question then recurred, shall an attempt be again made to add that of house-holder to the highway qualification, and run the hazard of the re-introduction of the proposition of the gentleman from Washington, abandoning all qualifications, and throwing open the ballot-boxes to every body—demolishing at one blow, the distinctive character of an elector, the proudest and most invaluable attribute of freemen? ✓

Mr. VAN BUREN said, he had, on the motion of the gentleman from Columbia, this day hinted at the numerous objections which he had to the proposition which the other day passed the convention, in regard to the right of suffrage: objections which he intended to make, had the committee reported in favor of that vote; and by which, when fully urged, he knew that he would be able to convince every member of this committee of the dangerous and alarming tendency of that precipitate and unexpected prostration of all qualifications. At this moment, he would only say, that among the many evils which would flow from a wholly unrestricted suffrage, the following would be the most injurious, viz:

First. It would give to the city of New-York about twenty-five thousand votes; whilst under the liberal extension of the right on the choice of delegates to this convention, she had but about thirteen or fourteen thousand. That the character of the increased number of votes would be such as would render their elections rather a curse than a blessing; which would drive from the polls all sober minded people; and such, he was hap-

py to find, was the united opinion, or nearly so, of the delegation from that city.

Secondly. It would not only be injurious to them, but that injury would work an equally great one to the western and northern parts of the state. It was the present consolation of our hardy sons of the west, that for their toils and their sufferings in reducing the wilderness to cultivation, they were cheered by the conviction, not only that they would be secure in the enjoyment of their dear bought improvements, in consequence of their representation in the legislature, but that any increase of that representation gave them a still greater influence there. That as far as it respected this state, their march, and the march of empire, kept pace. This arose from the circumstance of the representation in the state being founded on the number of electors: and because almost every man in a new country was an elector, under the existing and contemplated qualifications; whilst in the old counties, and especially in cities, there were great numbers who would not be embraced by them. So great was this effect, that the city of New-York alone would, under the vote of the other day, have become entitled to additional voters, over those who voted at the election of delegates, equal, or nearly so, to the whole number of votes of Ontario or Genesee. The direct consequence of which would be, that the additional representation of fourteen members, which are next year to be distributed among the counties, would, instead of going principally to the west, be surrendered to the worst population of the old counties and cities.

And thirdly. The door would have been entirely closed against retreat, whatever might be our after conviction, founded on experience, as to the evil tendency of this extended suffrage.

The just equilibrium between the rights of those who have, and those who have no interest in the government, could, when once thus surrendered, never be regained, except by the sword. But according to the present report, if experience should point out dangers from the very extensive qualifications we were about to establish, the legislature might relieve against the evil, by curtailing the objects of taxation. By the establishment of turnpikes, the making of canals, and the general improvements of the country, the highway tax would naturally be lessened, and might, if the legislature thought proper, be hereafter confined to property, instead of imposing it as they now do, on adult male citizens. For one hundred years, at least, this would afford a sufficient protection against the evils which were apprehended. He would, therefore, notwithstanding his desire to have the qualification of *householder* added to the electors of the third description remain unchanged, accept the report of

the committee as it was, with the addition of the military qualification, which he thought ought to be adopted, for the sake of principle, if for no other reason. He thought the committee, constituted as they were, had done themselves great credit by their concession to the opinion of those from whom they differed, and he, for one, returned them his sincere thanks. Under all circumstances, he would be well satisfied with the right of suffrage as it will now be established, and would give it his zealous support, as well in his capacity of delegate as that of citizen.

Extract from the proceedings of Wednesday, October 3, 1821. (Page 321.)

[ON THE MANNER OF APPOINTING OR ELECTING JUSTICES OF THE PEACE.]

Mr. VAN BUREN said there was a variety of opinions as to the proper place for the depository of the appointing power. Those who advocated the propriety of placing it in the Governor and senate, did not appear to be satisfied with the system which they advocated. He was anxious, before the question was decided, to remove their embarrassment, by designating the extent of power which was to be confided to this or that body—it was therefore his intention to submit a distinct proposition: and before he proceeded to do that, he would remark, that he most cordially concurred in opinion with the honorable gentleman from Albany, (Mr. Kent,) as to the importance of proceeding with harmony and good feeling. It had been to him a matter of surprise, that on a subject in which all were so deeply interested, and where individual interest could not be subserved, they should not be willing to preserve such feelings. A contrary course would undoubtedly have a direct tendency to weaken public confidence in the proceedings of the convention; if not generally, it would in the minds of the more enlightened parts of the community.

It was not to be disguised that that part of the report before the committee, relating to the appointment of justices of the peace, was by far the most important feature in the report; if that was settled, the remaining part of it would be got along with very easily. Some had thought these magistrates ought to be elected, but he had at all times been opposed to their election; and if he did not deceive himself, the force of the remarks of gentlemen in favor of their election, had excited doubts in the mind of every man, as to the propriety of such a measure. He concurred in the opinion which had been expressed

as to the impropriety of electing the higher officers of state, because their duties were important: and it was to be feared that it would have a tendency to render their judgment subservient to their desire for a continuance in office. This was the principal argument which had been used. If there were other reasons, he did not know what they were.

The amount of business before the justices of the peace in this State was five times as great as all the business before the other courts—on this point, it appeared to him there was no room for a diversity of opinion—the truth of this statement could be ascertained by a reference to their proceedings. They were equally important as it respected criminal justice.

As to the probable effect upon their independence, there is no room for a comparison. The judges of the supreme court are elected for a long term of time; should the people become dissatisfied, even whole counties, these officers might not feel the effects of their displeasure till after a long time had elapsed: but apply this to justices of the peace, who administer justice in the immediate presence of their constituents, and are exposed to the daily scrutiny of those upon whom they are dependent; who are cognizant of all they do; and have the power of passing judgment upon them. If they are not satisfied with them, they must forfeit their offices.

What could the single arm of a chief magistrate of this State do, towards suppressing a rebellion? It must be effected through the interposition of this inferior magistracy. He was willing to go as far as any man in endeavoring to curtail dangerous patronage in distinct bodies of men; but he would not go so far as to cut every cord that binds together the people to the government.

It was at first thought advisable by the committee to have them appointed by the court of common pleas; but on more mature deliberation it was concluded that it would be making political engines of them, and therefore it was abandoned, and the principle adopted which is contained in the report now before the committee. There are different propositions before the committee, viz: for having them elective, for having them appointed by the Governor and Senate, and for having them appointed by the Governor and a council of six.

Mr. V. B. said he would not pretend to raise any new argument, but apply those which had been urged with so much force by the gentleman from Albany (Mr. Spencer,) who had first spoken this morning. His first objection was, that these men who are to be chosen as a council, are to be chosen by corrupt and intriguing men in their respective districts. If this be the case in these extensive districts, how much more so will it be in individual counties? And again, these men are to be

ected by a party, and therefore represent that party; consequently all their acts will be characterized by party views; and again, no decent man will undertake to perform a duty which will be sure to lead him into difficulty. Every man would be in favor of his friend, and would therefore give rise to all the hard feelings which have been so sorely felt in the method heretofore practised by our present council. We have had some experience on this subject—I think, therefore, we ought not to proceed without serious deliberation.

We have reported a project for the city of New-York, but we are informed that it does not meet with the approbation of that city; and is it reasonable to suppose that a similar plan would meet the feelings of the different counties?

Mr. V. B. would refer the committee, though with reluctance, to the proceedings of the past council of appointment—particularly to one act. During the last winter apprehensions were abroad in this good city, that certain individuals would have too much influence in the council; and to shut the door against this evil, the people took it into their own hands, called ward meetings to make arrangements for the selection of officers in the city; and it is known that it caused more difficulty than any other circumstance.

He did not believe it would be benefiting the people, to extinguish one great fire, and enkindle fifty-two small ones. The further this power could be removed from the people, the better. He could not therefore consent to the proposition of the gentlemen from Oneida (Mr. Platt,) and would ask the liberty of submitting to the consideration of the committee a project of his own. He submitted it under a full conviction of its practical utility, although it might not go so far towards meeting the views of the gentleman from Albany as would be desirable. His proposition is this: “To amend the second section of the report by adding thereto at the conclusion of the same the following words: “Who shall be appointed in the manner following, viz: “That the board of supervisors in every county in this State shall once in every years at such time as the legislature may direct recommend to the Governor a list of persons equal in number to the justices of the peace by law authorized to be appointed for said county; and the respective courts of common pleas of the several counties shall also recommend a list of the like number, and as often as any vacancies shall happen, the board of supervisors and courts of common pleas of the counties in which such vacancies may happen, shall recommend lists of persons equal to the number of vacancies in such county; and from the lists so recommended, the Governor shall appoint and commission the justices of the peace for the respective counties—that the said justices shall hold their

offices for years, but may be removed by the Governor on the address of the body which recommended their appointment, stating in writing the grounds of such removal."

This proposition, in the first place meets the views of the gentlemen who are desirous of removing this power from the seat of government, as the nominations must originate in the counties. No man will suppose that the Governor will go into the different counties of the State to influence the nominations; he will merely have the right of discriminating between the individuals nominated in the counties where they reside. This, then, is the first advantage—the second will be that the nominations will be respectable.

He could not agree in opinion with his honorable friend from Albany as to the merits of the magistrates in this State; he considered them a very respectable body. The supervisors of a county coming from the different towns in that county, will be acquainted with the merits of the individuals in their respective towns—there will be a rivalry for the most respectable candidates; they will be selected for their respectability and responsibility; and instead of depending for favoritism on the Executive, as has heretofore been the case under the former council, they will consider it their interest to send to the Governor the most respectable names that they can select. The Governor may obtain any additional information which he may require from the representatives of the people in the legislature. Should there be distinct parties in these counties, one in favor and the other opposed to the Governor, from both of which candidates should be nominated, he would, undoubtedly, knowing his own responsibility to the people, select from both political classes, with due attention to their qualifications and standing in society. It is unreasonable and rash to suppose that he would be confined to one particular class when an indulgence in such a course must be at his own expense—he cannot do it from ignorance or in the dark.

The judges of the common pleas will be anxious to recommend the safest and best men, as they will have frequent occasion to sit with them in criminal cases. These were a few of the advantages arising from the plan which he proposed, although gentlemen may say it does not answer the public expectation in bringing home to the doors of the people, this power of appointment. It will be seen that out of fourteen thousand officers which were heretofore dependent on this general appointing power, about eight thousand militia officers have been taken and thrown home to the people, leaving but a small number dependent on this general appointing power. It has been said that military appointments never excited great

interest; although it may be true in part, it is not to the full extent; it has been carried so far that you could scarce meet a man who was not a colonel, whilst almost every man has felt a deep interest in the subject, either directly or indirectly. An attempt was once made in the Senate of this State to vary the features of our militia system, it is well known that it excited great alarm. Instead of fourteen thousand appointments, there are now but six thousand to account for—three thousand are proposed to be provided for by the legislature as they may think proper—these are coroners, acknowledgers of deeds, examiners in chancery, &c. &c., leaving but about two thousand five hundred upon which the Governor will have a right to discriminate. District attorneys, clerks of courts, mayors and recorders are already provided for, and are to be appointed by the courts and common councils. Compare the number of officers now under consideration, with the number heretofore originating in the general power—it leaves but a small proportion.

MR. VAN BUREN thereupon moved to pass over the second, third and fourth sections of the report in order to take up the fifth. (Lost.)

Extract from the proceedings of Monday, October 8, 1821.

[QUALIFICATIONS OF COLOURED PERSONS.]

(Page 374.) MR. PLATT moved to expunge the proviso in the first section, which declares that no person "*other than a white man*" shall vote, unless he have a freehold estate of the value of \$250.

(Page 376.) MR. VAN BUREN said he had voted against a total and unqualified exclusion, for he would not draw a revenue from them, and yet deny to them the right of suffrage. But this proviso met his approbation. They were exempted from taxation until they had qualified themselves to vote. The right was not denied, to exclude any portion of the community who will not exercise the right of suffrage in its purity. This held out inducements to industry, and would receive his support.

(Page 377.) The question on striking out the proviso was then taken by ayes and noes, and decided as follows:

Noes:—Messrs. Baker, Beckwith, Bowman, Breese, Briggs, Burroughs, Carpenter, Carver, Case, D. Clarke, Cramer, Dubois, Dyckman, Edwards, Fairlie, Fenton, Ferris, Frost, Howe, Humphrey, Hunt, Hunter, Hunting, Hurd, Lansing, Lawrence, A. Livingston, P. R. Livingston, McCall, Moore, Nelson, Park, Porter, Price, Pumpelly, Radcliff, Reeve, Ri-

chards, Rockwell, Rose, Ross, Russell, Sage, R. Sanford, Schenck, Seaman, Seeley, Sharpe, Sheldon, I. Smith, R. Smith, Stagg, Starkweather, Swift, Tallmadge, Taylor, Ten Eyck, Townley, Townsend, Tripp, Tuttle, Van Buren, Van Fleet, Van Horne, Ward, A. Webster, Wendover, N. Williams, Woods, Yates, Young.—71.

Ayes :—Messrs. Bacon, Barlow, Birdseye, Brooks, Buel, Child, R. Clarke, Day, Duer, Eastwood, Fish, Hees, Hogeboom, Huntington, Jay, Jones, Kent, Munro, Paulding, Pitcher, Platt, Rhinelander, Root, Sanders, N. Sanford, Spencer, Sylvester, Van Ness, J. R. Van Rensselaer, S. Van Rensselaer, Wheaton, E. Williams, Wooster.—33.

I certify that I have carefully compared the foregoing extracts from the printed book entitled "Reports of the proceedings and debates of the Convention of 1821, assembled for the purpose of amending the Constitution of the State of New-York; containing all the official documents relating to the subject and other valuable matter, by Nathaniel H. Carter and William L. Stone, reporters, and Marcus T. C. Gould, stenographer, Albany. Printed and published by E. & E. Hosford, 1821;" and that the preceding are faithful copies of the passages extracted and of the whole of such passages:

JOHN C. SPENCER.

Albany June 23, 1840.











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